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OVERSIGHT HEARING ON GOVERNMENTWIDE BUYOUTS AND H.R. 4488

HEARING

BEFORE THE

SUBCOMMITTEE ON
COMPENSATION AND EMPLOYEE BENEFITS

OF THE

COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

SEPTEMBER 22, 1994

Serial No. 103–57

Printed for the use of the Committee on Post Office and Civil Service

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September 22, 1994

OVERSIGHT HEARING ON GOVERNMENTWIDE BUYOUTS AND H.R. 4488

THURSDAY, SEPTEMBER 22, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS,
Washington, DC.

The subcommittee met, pursuant to call, at 10:05 a.m., in room 311, Cannon House Office Building, Hon. Eleanor Holmes Norton (chair of the subcommittee) presiding.

Members present: Representatives Norton and Morella.

Ms. NORTON. This hearing is convened.

This hearing has been called for two purposes. We are here to hear testimony concerning the experience of agencies about using the buyout authority approved last March 31. The second purpose of this hearing is to take testimony on H.R. 4488, my bill to prohibit agencies from contracting out the work of bought-out employees.

It is important to document both the successes and problems of the buyout legislation. This, after all, is the first time the Government has used voluntary buyouts Governmentwide. We must learn from what experience we have, even while it is occurring, in order to avoid unintended consequences and to correct mistakes that could be costly to agencies, employees, and the Government itself.

The decision to use buyouts has been vindicated. Once a decision to do downsizing was made, buyouts were surely the only rational vehicle. RIF's to achieve a quota for downsizing would be reckless, leaving agencies hopelessly inefficient.

Lower level, frontline employees often lose their jobs, not senior middle managers among whom there may be some excess employees. Senior employees retain their salaries, simply bumping junior employees from their positions and often out of Government altogether. Moreover, layoffs cost more than buyouts.

Nevertheless, while buyouts are the best way to accomplish downsizing, only our own actual buyout experience can tell us whether improvements are needed. We hope to begin this documentation today.

We will also hear testimony on H.R. 4488, a bill designed to provide added integrity to the buyout authority. The purpose of buyouts to downsize the Government is completely undermined if civil servants are simply replaced by contract employees.

Congress added provisions to avoid abuse of buyouts, such as barring the return to the payroll for 5 years of civil servants who take buyouts. Far more likely than that abuse, however, would be the substitution of contract employees for bought-out employees.

Service contracts by the Government appear already out of control. Service contracts have grown to $105 billion and, astonishingly, almost alone have been spared cuts throughout the difficult deficit reduction process thus far.

The broad authority of buyouts could become an open invitation to agencies to use an unregulated shadow government of contract employees to replace civil servants. This would subvert the purpose to reduce the number of employees and reduce personnel costs to the Government.

I would like to welcome all of today's witnesses and look forward to hearing their testimony.

Panel one consists of Mr. John Koskinen, Deputy Director for Management, Office of Management and Budget; Mr. Leonard R. Klein, Associate Director for Career Entry, Office of Personnel Management; and Ms. Nancy R. Kingsbury, Director of Federal Human Resource Management Issues, General Government Division, General Accounting Office.

Welcome. My welcome to all three of you.

STATEMENTS OF JOHN A. KOSKINEN, DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET; LEONARD R. KLEIN, ASSOCIATE DIRECTOR FOR CAREER ENTRY, OFFICE OF PERSONNEL MANAGEMENT; AND NANCY R. KINGSBURY, DIRECTOR OF FEDERAL HUMAN RESOURCE MANAGEMENT ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE

Ms. NORTON. And we would be pleased to begin with Mr. Koskinen.

Mr. KOSKINEN. Good morning, Madam Chair. I am pleased to be able to testify before this subcommittee on a subject of great importance to the administration.

The voluntary separation incentive payout authority, a legislative product of this subcommittee, has already proved its worth as an effective tool for the agencies to increase voluntary turnover so that streamlining reforms can be more readily implemented. On behalf of the administration, I would like to express our appreciation again for the assistance of this subcommittee in the enactment of the Federal Workforce Restructuring Act of 1994.

It was just over a year ago, on September 11, 1993, that the President directed all departments and agencies to develop streamlining plans to address the issues raised by the Vice President's National Performance Review. These plans were to restructure the way departments and agencies perform their work, to eliminate unnecessary layers of supervision, to reduce headquarters staffs, and to empower employees to take more responsibility for their activities.

The President's Management Council, composed of the chief operating officers of the major departments and agencies, has made effective streamlining its top priority, and review of the streamlining plans will be an important element of the President's fiscal year 1996 budget development process.

The Office of Personnel Management is responsible for providing data and information on operation of the buyout authority. OMB's oversight role is principally focused on those provisions in the act that limit executive branch employment through 1999. OMB, with the assistance of OPM, is monitoring Governmentwide employment levels.

As required, we have determined that, at the end of this past quarter, the statutory personnel ceiling is being met. Thus, there has been no need for OMB to call for a Governmentwide freeze on hiring as the act would require if the statutorily mandated ceilings were not met.

We expect the Governmentwide work-force reductions will be achieved through 1999 by implementation of the agency's streamlining plans. Targeted use of voluntary separation incentive payments has given agencies a jump start on that longer term effort. The act, however, requires that each vacancy created by a nondefense buyout be matched, or offset, by a reduction in total executive branch nondefense employment.

For the fiscal year 1994 buyout program, the reduction in employment already programmed was sufficient to offset the buyouts that agencies planned to make without requiring additional reductions. For 1995, the agencies are aware of this requirement and are making their plans accordingly.

The NPR has recommended that FTE reductions be achieved primarily through consolidating or eliminating field offices, reducing management layers, and eliminating unnecessary controls and micromanagement now associated with such overhead services as personnel and procurement. While we do not expect that the work of these employees will be converted to contract performance as a matter of course, in those instances where conversions to contract may be appropriate and in the best interests of the taxpayers, agencies should retain the authority to do so.

H.R. 4488 would amend the Federal Workforce Restructuring Act to prohibit performing by contract the duties of an individual who voluntarily separated from Government service in order to achieve—to receive a separation incentive payment.

Thus, H.R. 4488 has the potential of prohibiting converting any work to private sector performance without regard to a cost comparison demonstrating that there was a financial advantage to the Government. The particular circumstances that cause an employee to accept a buyout offer would override any justified conversion to contract performance. Our concern is that H.R. 4488 would reduce the incentive for agencies to offer buyouts even to minimize any adverse work-force impact of an approved decision to convert to contract.

To insure that buyouts do not automatically result in contracting out, section 5(g) of the existing act prohibits agencies from contracting out unless a cost comparison demonstrates that there is a financial advantage to the Government.

In those cases where contract performance may be appropriate, agencies have been advised by acting OMB Director Alice Rivlin to comply with section 5(g) of the act through the conduct of OMB Circular A–76 comparisons, where applicable.

In those areas where Circular A–76 does not apply, such as research and development activities and activities that involve less than 10 full-time equivalents, agencies may develop alternative cost comparison approaches in response to the cost comparison requirements of section 5(g) or they may use Circular A–76 procedures.

We believe that section 5(g) of the act and the related OMB guidance appropriately address the concern that agencies might be inclined to contract out activities to meet personnel ceilings where it is not appropriate to do so.

While there is always the potential for abuse, we believe the appropriate remedy is to deal with the individual cases rather than enact across-the-board restrictions on agency discretion. We therefore reluctantly must oppose this legislation.

I will be pleased at the end of the testimony of my copanelists to answer any questions you may have. Thank you.

[The prepared statement of Mr. Koskinen follows:]

PREPARED STATEMENT OF JOHN A. KOSKINEN, DEPUTY DIRECTOR FOR MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET

Madam Chair, I am pleased to be able to testify before this Subcommittee on a subject of great importance to the Administration. The voluntary separation incentive payment authority, a legislative product of this Subcommittee, has already proved its worth as an effective tool for the agencies to increase voluntary turnover so that streamlining reforms can be more readily implemented. On behalf of the Administration, I would like to express our appreciation again for the assistance of this subcommittee in the enactment of the Federal Workforce Restructuring Act of 1994.

It was just over a year ago, on September 11, 1993, that the President directed all departments and agencies to develop streamlining plans to address the issues raised by the Vice President's National Performance Review (NPR). These plans were to restructure the way departments and agencies perform their work, to eliminate unnecessary layers of supervision, to reduce headquarters staffs, and to empower employees to take more responsibility for their activities. The President's Management Council, composed of the chief operating officers of the major departments and agencies, has made effective streamlining its top priority and review of the streamlining plans will be an important element of the President's Fiscal Year 1996 budget development process.

The Office of Personnel Management is responsible for providing data and information on operation of the buyout authority. OMB's oversight role is principally focused on those provisions in the Act that limit Executive Branch employment through 1999. OMB, with the assistance of OPM, is monitoring government-wide employment levels. As required, we have determined that, as of the end of this past quarter, the statutory personnel ceiling is being met. Thus, there has been no need for OMB to call for a government-wide freeze on hiring as the Act would require if the statutorily mandated ceilings were not being met.

We expect the government-wide workforce reductions will be achieved through 1999 by implementation of the agency's streamlining plans. Targeted use of voluntary separation incentive payments has given agencies a "jump start" on that longer-term effort. The Act, however, requires that each vacancy created by a non-Defense buyout be matched, or offset, by a reduction in total Executive Branch non-Defense employment. For the fiscal year 1994 buyout program, the reduction in employment already programmed was sufficient to offset the buyouts that agencies planned to make without requiring additional reductions. For 1995, the agencies are aware of this requirement and are making their plans accordingly.

The NPR has recommended that FTE reductions be achieved primarily through consolidating or eliminating field offices, reducing management layers, and eliminating unnecessary controls and micromanagement now associated with such overhead services as personnel and procurement. While we do not expect that the work of these employees will be converted to contract performance as a matter of course, in those instances where conversions to contract may be appropriate and in the best interests of the taxpayer, agencies should retain the authority to do so.

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Thus, H.R. 4488 has the potential of prohibiting converting any work to private sector performance without regard to a cost comparison demonstrating that there was a financial advantage to the Government. The particular circumstances that cause an employee to accept a buyout offer would override any justified conversion to contract performance. Our concern is that H.R. 4488 would reduce the incentive for agencies to offer buyouts even to minimize any adverse workforce impact of an approved decision to convert to contract.

To insure that buyouts do not automatically result in contracting out, section 5(g) of the existing Act prohibits agencies from contracting out unless a cost comparison demonstrates that there is a financial advantage to the Government. In those cases where contract performance may be appropriate, agencies have been advised by Acting OMB Director Rivlin to comply with section 5(g) of the Act through the conduct of OMB Circular A–76 comparisons, where applicable. In those areas where Circular A–76 does not apply, such as Research and Development activities and activities that involve less than 10 FTE, agencies may develop alternative cost comparison approaches in response to the cost comparison requirements of Section 5(g) or they may use Circular A–76 procedures. We believe that section 5(b) of the Act and the related OMB guidelines appropriately address the concern that agencies might be inclined to contract out activities to meet personnel ceilings where it is not appropriate to do so.

While there is always the potential for abuse, we believe the appropriate remedy is to deal with the individual cases rather than enact across-the-board restrictions on agency discretion. We therefore oppose this legislation.

I will be pleased to answer any questions you may have. Thank you.

Ms. NORTON. Yes, Mr. Klein.

Mr. KLEIN. Good morning, Madam Chair. Thank you for providing OPM this opportunity to testify on the operation of the Governmentwide buyout program under the Federal Workforce Restructuring Act of 1994, and on H.R. 4488.

The Governmentwide buyout program is working effectively to help agencies achieve needed downsizing while avoiding reductions in force. Under the program, agencies can offer incentives equal to the amount of the employee's severance pay, but not over $25,000, for employees who voluntarily separate through regular retirement, early retirement, or resignation. The authority provides flexibility for agencies to offer buyouts on an organizational, occupational, or geographic basis where most needed.

An employee who separates with a buyout and becomes reemployed by the Federal Government within 5 years, either in an agency or under a personal services contract, must repay the entire amount of the incentive. The repayment requirement may be waived only under very stringent conditions and may not be waived at all if the reemployment is under a personal services contract.

To ensure that buyouts result in needed personnel cuts, the Restructuring Act requires a reduction of one full-time equivalent position for each buyout taken for all non-Defense agencies under the Governmentwide authority. Further, section 5(g) of the act requires the President to ensure that there is no increase in agencies' procurement of service contracts as a result of providing buyouts, unless a cost comparison demonstrates that there is a financial advantage to the Government.

OPM believes that, to this point, the experience with the buyout program has been very positive. From enactment of the authority on March 30 of this year through September 20, nearly 15,000 employees have taken buyouts offered by a wide variety of departments and agencies.

We believe that the agencies are finding buyouts to be an effective tool to make needed cuts without adversely affecting employees. For example, USIA told us that buyouts enabled them to avoid a RIF thus far which would have separated involuntarily over 200 employees. NASA also reported very favorable results, with many more buyout takers than originally expected.

At the Education Department, buyouts were used to streamline the organization with a more diversified work force. Education officials estimate savings to be about $7.4 million in fiscal year 1995, from the Department's 1994 buyouts, which cost $1.7 million.

We are particularly pleased that agencies have been using the flexibility in the program to offer buyouts on an appropriate organizational and occupational basis. At the three agencies I cited, buyouts were offered on a broad basis in the agency, but with exceptions for specific occupations that were especially needed by the agency. Other agencies have offered buyouts on a more specifically targeted basis, depending on where the cuts are most needed.

Agencies have thus far been able to offer buyouts while maintaining their ability to carry out their mission. The use of the voluntary means, rather than RIF's, is a much better option for the morale and productivity of all employees.

In addition, the use of buyouts may be better from the standpoint of work force diversity, since buyout takers tend to be older employees who are eligible for either regular retirement or early-out retirement, while employees affected by RIF's tend to be relatively young, and many younger employees are women and minorities. Certainly, it is better to have voluntary separation through buyouts rather than a RIF of any employee.

Agencies' offers of buyouts were in some cases limited during fiscal year 1994, because the authority did not become available until midway through the fiscal year. Based on our contacts with agencies, we anticipate extensive use of the buyouts from the start of the upcoming fiscal year. The experience up to now points toward a successful buyout program until the program expires on March 31, 1995, and OPM will continue to watch the situation closely as events develop.

Now, let me briefly address H.R. 4488, which would prohibit agencies from contracting out, in whole or in part, the duties and responsibilities of an individual who separates from the Government in order to receive a buy out.

Given the emphasis on labor-management relationships and decentralized decisionmaking, this issue may be better addressed at the local level, without a blanket prohibition. For example, where an A–76 study shows that contracting out a particular function will lower costs and could improve services, an agency-union management partnership council could decide to offer affected employees buyouts or comparable jobs elsewhere in the agency, rather than having reductions in force. That option would not be available if the prohitition in H.R. 4488 were to be enacted.

This concludes my statement. I would be happy to answer any questions you may have.

[The prepared statement of Mr. Klein follows:]

PREPARED STATEMENT OF LEONARD R. KLEIN, ASSOCIATE DIRECTOR FOR CAREER ENTRY, OFFICE OF PERSONNEL MANAGEMENT

Madam Chair and Members of the Subcommittee, thank you for providing OPM this opportunity to testify on the operation of the Government-wide buyout program under the Federal Workforce Restructuring Act of 1994, and on H.R. 4488.

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OPM believes that, to this point, the experience with the buyout program has been very positive. From enactment of the authority on March 30 of this year through September 20, nearly 15,000 employees have taken buyouts offered by a wide variety of departments and agencies. We believe that agencies are finding buyouts to be an effective tool to make needed cuts without adversely affecting employees. For example, USIA told us that buyouts enabled them to avoid a RIF thus far, which would have separated involuntarily over 200 employees. NASA also reported very favorable results, with many more buyout takers than originally expected. At the Education Department, buyouts were used to streamline the organization with a more diversified work force. Education officials estimate savings of about $7.4 million in fiscal year 1995 from the Department's 1994 buyouts, which cost $1.7 million. We are particularly pleased that agencies have been using the flexibility in the program to offer buyouts on the appropriate organizational and occupational bases. At the three agencies I cited, buyouts were offered on a broad basis in the agency, but with exceptions for specific occupations that were especially needed by the agency. Other agencies have offered buyouts on a more specifically targeted basis, depending on where cuts are most needed. Agencies have thus been able to offer buyouts while maintaining their ability to carry out their mission. The use of voluntary means, rather than RIF's is much better for the morale and productivity of all employees. In addition, the use of buyouts may be better from the standpoint of work force diversity, since buyout takers tend to be older employees who are eligible for either regular retirement or early-out retirement, while employees affected by RIF's tend to be relatively young, and many younger employees are women and minorities. Certainly, it is better for the separation of any employee to be voluntary.

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Now, let me briefly address H.R. 4488, which would prohibit an agency from contracting out, in whole or in part, the duties and responsibilities of an individual who separates from the Government in order to receive a buyout. Given the emphasis on labor-management partnerships and decentralized decisionmaking, this issue may be better addressed at the local level, without a blanket prohibition. For example, where an A–76 study shows that contracting out a particular function will lower costs and could improve services, an agency-union partnership council could decide to offer affected employees buyouts or comparable jobs in other parts of their organizations to avoid displacement. That option would not be available if the prohibition in H.R. 4488 is enacted.

This concludes my prepared statement. I would be pleased to answer any questions the subcommittee may have.

Ms. NORTON. Ms. Kingsbury.

Ms. KINGSBURY. Thank you, Madam Chairman.

Since my written statement contains a lot of the same kind of background information that the other two panelists have already given you, I would like to focus my part of this presentation on the five specific questions that you asked us to address in anticipation of this hearing.

One of the questions you asked was, "Did the fiscal year 1994 buyouts help to mitigate RIF's and are they likely to mitigate RIF's in the future?" It is clear from the information we collected from agencies that the buyouts did have a very positive effect on avoiding RIF's in fiscal year 1994.

The agencies that reported to us estimated that about 2,800 potential RIFees, if you will, were protected by their ability to offer buyouts in fiscal year 1994. Most agencies tell us that they are unlikely to have RIF's in 1995 and they plan to use other means, including the buyouts, hiring freezes, and reassignments to avoid RIF's in 1995. But there are a few agencies that did tell us that they are expecting not to be able to totally avoid RIF's.

You also asked us how much did the buyouts cost and what kinds of savings can the taxpayers expect? We did ask that question of agencies, and they reported to us that in 1994 they spent or they paid out, in either incentive payments themselves or in the mandatory contributions to the retirement system for early retirees, a total of $362 million. That is the report from 27 agencies.

None of the agencies reported savings in fiscal year 1994, largely because the buyout program was enacted so late in the year. They do report, however, that the 1994 actions will save about $642 million in fiscal year 1995.

While we didn't look behind those numbers, it seems fairly clear that there are going to be substantial savings to the taxpayer.

Third, you asked us, have the buyouts affected the ability of agencies to carry out their missions? Most agencies reported to us that there has not been a dramatic effect, but some of those reports were also qualified by the fact that it is a little early to tell. Many of these buyouts are only taking place as we speak, and the actual effects on organizations may not play out for some more months.

Others have said that certain functions were, in fact, adversely affected by the buyouts, and I am—we didn't go into what they are doing to cope with that, but, as you know, we are going to be doing a followup report on this whole program for you next spring, and we will be looking into those issues in more depth for that work.

Consistent with your remarks this morning, you have asked us, "Did we find any evidence that contractors are being used to backfill vacancies created by the buyouts?" Despite public reports—persistent public reports that that is going on, none of the agencies said that they were doing that. We also talked to representatives of the major employee unions who could not provide us any evidence that that kind of activity is going on.

We would also caution, however, that it is early, and we will be specifically looking at contract actions in the agencies for our followup work to make sure that that is not happening where it is inappropriate.

Finally, you asked how did the buyouts relate to the NPR's goals of Reinventing Government, and I think I have two observations to make for you on that.

First of all, many of the agencies are targeting their buyouts at the kinds of positions that were referred to earlier that the NPR recommends agencies reduce supervisory positions, higher graded positions, and positions in what are referred to as overhead functions. But as an auditor I have to take some issue with that characterization. Nonetheless, agencies do seem to be focusing on reducing their supervisory ratios and the higher-graded positions.

On the other hand, we are a little concerned that the early efforts to submit the so-called streamlining plans to OMB have clearly not been successful, and there seems to be very little evidence out there that the kind of planning that that directive intended, and certainly that ought to be taking place, doesn't seem to be accomplished yet.

We are going to be looking very closely at how this planning process plays out, and we are quite concerned that the kind of planning that organizations tell us is critical is not really going on.

With that, I will stop and will be happy to take your questions.

Ms. NORTON. Thank you very much.

[The prepared statement of Ms. Kingsbury follows:]

PREPARED STATEMENT OF NANCY R. KINGSBURY, DIRECTOR OF FEDERAL HUMAN RESOURCE MANAGEMENT ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE

The Federal Workforce Restructuring Act of 1994 (P.L. 103–226) gives non-Department of Defense (DoD) executive branch agencies the authority to pay eligible employees as much as $25,000 to voluntarily leave federal service. This was done to help agencies meet the National Performance Review's (NPR's) downsizing and reinvention goals without resorting to costly reductions-in-force (RIFs). With a first round of buyouts about to be completed, and a second round to begin with the next fiscal year, GAO developed this status report on the results of the buyouts to date at non-DoD agencies. GAO did this by sending questionnaires to a judgmentally selected sample of 37 agencies, 35 of which reportedly had made buyouts when GAO began its study in August 1994. GAO received data representing 34 agencies. GAO also interviewed representatives of OPM, OMB, and five public employee unions. GAO did not verify the data agencies provided in their questionnaires nor the information obtained during the interviews.

According to the agencies GAO surveyed, the buyouts were successful in helping agencies avoid RIFs in fiscal year 1994. While 2 agencies said they RIFed a total of 642 employees, were it not for the buyouts, 9 other agencies said that nearly 2,800 employees would have been let go. Most agencies reported that RIFs will be unlikely in fiscal year 1995. Taxpayers apparently benefited from the buyouts as well. Agencies said that savings from the buyouts will amount to nearly $642 million in fiscal year 1995.

Despite the large numbers of people leaving the government, most agencies reported the buyouts had no effect on their ability to carry out their missions. At the same time, neither the agencies GAO surveyed nor the union representatives GAO interviewed reported that contractors were being hired to do the work of separated employees.

While agencies were to accompany their workforce reductions with comprehensive plans detailing the management reforms and restructuring initiatives they intended to make to achieve the NPR's reinvention goals, GAO is concerned that a number of those plans appear to have fallen short of the administration's expectations. In its ongoing study of the lessons learned by 25 nonfederal employers who had already experienced a downsizing, GAO was told that such planning was essential. Nonfederal organizations that did not plan their downsizing said they cut needed employees, suffered skills imbalances, and were often forced to replace some of those lost through lack of planning.

Madam Chair and members of the subcommittee, we are pleased to be there today to discuss the federal government's buyout activities at non-Department of Defense (DoD) agencies.

As you are aware, the buyouts were authorized by the Federal Workforce Restructuring Act of 1994 (P.L. 103–226) to help meet the National Performance Review's (NPR) goal of reducing the federal workforce by more than a quarter million people by 1999. The NPR stated that these positions will be unnecessary if agencies "reinvent" themselves through management reforms and restructuring.

Both the NPR and Congress intended the buyouts to be a cost-effective alternative to separating employees involuntarily through reductions-in-force (RIFs). According to an OPM official, as of September 20, 1994, non-DoD agencies reported paying buyouts to 14,930 employees.

With the 1994 buyouts winding down, and a second wave of buyouts set to begin with the new fiscal year, we wanted to determine how well the buyouts are working. We are monitoring the government's buyout activities and will prepare a detailed assessment after the buyout authority expires on March 31, 1995. However, at your request, we have prepared the following status report on the results to date of the 1994 buyouts at non-DoD agencies, with specific emphasis on the following questions:

Did the fiscal year 1994 buyouts help mitigate RIFs? Are RIFs expected in the future?

How much did the buyouts cost and what kinds of savings can taxpayers expect?

Have the buyouts affected the ability of agencies to accomplish their missions?

Are contractors being used to "backfill" vacancies created by the buyouts?

How do the buyouts relate to the NPR's goal of reinventing government?

We obtained our data by sending questionnaires to a judgmentally selected sample of 37 agencies in August 1994. Of those agencies, OPM data as of August 4, 1994, showed 35 had made buyouts. Two additional agencies that had not reported making any buyouts at the time of our study were included because of the possibility they may make buyouts in fiscal year 1995.

Data representing 34 of the 37 agencies was received in time to be included in our study (two agencies combined their responses with other units in the same department). These 34 agencies were responsible for 94 percent of the 14,760 buyouts reported to OPM as of August 4, 1994. We also interviewed officials from the Office of Personnel Management (OPM); the Office of Management and Budget (OMB); and five public employee unions. We did not verify the data agencies provided in their questionnaires nor the information obtained during the interviews.

BACKGROUND ON THE FEDERAL BUYOUTS

The Federal Workforce Restructuring Act allows non-Defense executive branch agencies to offer voluntary separation incentive payments (VSIP)—commonly known as buyouts—to employees in any designated component, occupation, grade, series, and/or location who voluntarily agree to resign, retire, or take voluntary early retirement. Agencies may allow employees to take buyouts through March 31, 1995.

To receive a buyout, an employee must: Be serving under appointment without time limit; have 12 months of continuous service; not be a reemployed annuitant; not be eligible for disability retirement; agree to resign or retire voluntarily before April 1, 1995, unless the head of the agency agrees to an extension, but no later than March 31, 1997; and be in a position designated by the agency as eligible for buyouts.

The buyout is $25,000 or an amount equal to the employee's severance pay entitlement, whichever is less. The law also requires that for each buyout taken, agencies are to make a one time payment of a 9 percent of an employee's basic salary at the time of the buyout to the federal retirement fund.

If any employee receiving the buyout is rehired by the federal government or performs services under a personal services contract with the government within 5 years of the date of separation, the employee must repay the full buyout to the agency that made the payment.

How the buyout reductions are monitored

To ensure that savings are achieved and vacated positions are not simply refilled, the Federal Workforce Restructuring Act requires a governmentwide (excluding the Department of Defense and Central Intelligence Agency) reduction in full time equivalent (FTE) positions for each buyout given.[1] OMB has interpreted this to

[1] An FTE is normally equivalent to one person working 1 year. According to OMB guidance, this generally equals 260 compensable days (2,080 hours), and excludes overtime and holidays.

mean that, for each buyout that occurs in a fiscal year, the following year's FTE level should be reduced by at least one.

Because this FTE offset is to be implemented governmentwide (excluding the Department of Defense and Central Intelligence Agency), the act designated OMB as the focal point for monitoring the federal buyout effort to ensure that the required governmentwide reduction in FTEs is achieved.

AGENCIES REPORT BUYOUTS NEARLY ELIMINATED THE NEED FOR RIFS IN FISCAL YEAR 1994 AND WILL LIKELY MITIGATE THEM IN FISCAL YEAR 1995

According to the agencies we surveyed, the buyouts were successful in helping agencies avoid RIFs in fiscal year 1994. This is important because RIFs can be costly to agencies. When agencies separate employees through RIFs, they are required to make severance payments that, depending on an employee's length of service, can be as much as 1 year's pay at the level received immediately prior to separation. Moreover, the involuntary nature of RIFs and their widespread impact can disrupt agency operations and affect employee morale.

Of the 32 agencies responding to the question, only 2 said they RIFed employees. One agency said it RIFed 70 employees, while the second, OPM, said it RIFed over 500 employees. OPM's RIFs resulted from somewhat special circumstances, however. The agency had to RIF employees in the spring of 1994 to help stop a $3 million per month shortfall in OPM's training and investigations revolving fund. They said the buyout authority came too late to avert those separations.

Were it not for the buyouts, agencies reported that many more employees would have lost their jobs involuntarily. Of the 9 agencies that said RIFs would have been necessary in fiscal year 1994 if not for the buyouts, 8 estimated they would have RIFed nearly 2,800 employees. Moreover, it seems that fiscal year 1994 buyouts will help agencies avoid RIFs in fiscal year 1995. Indeed, were it not for this fiscal year's buyouts, 12 agencies said they would probably need to RIF over 8,000 workers in fiscal year 1995.

The buyouts were reported as particularly effective by the United States Information Agency (USIA) which was on the brink of a RIF. According to a USIA official, RIF notices had already been issued to over 200 employees. Passage of the buyout bill, however, made any involuntary separations unnecessary.

While fiscal year 1994 saw RIFs at few of the agencies we surveyed, the outlook for the future is also optimistic. Of the 31 agencies responding to the question, 21 said it was likely that they would need to reduce their workforce levels next year based on fiscal year 1996 ceilings. However, only 5 agencies indicated that it was likely that employees would be released through RIFs in fiscal year 1995, compared to 22 that said RIFs were unlikely. Of course, the likelihood of RIFs in fiscal year 1995 will depend largely on agencies' fiscal year 1996 budget allocations and their ability to make the number of buyouts they need.

Most of the agencies we surveyed believe they will offer a number of buyouts in fiscal year 1995. Twenty-one agencies responding estimated they will offer a total of over 10,000 buyouts. Governmentwide, OPM estimated that agencies will make as many as 50,000 buyouts in fiscal year 1995. This number includes approximately 25,000 to 30,000 buyouts expected at DoD (our data excludes DoD). Moreover, agencies' buyout estimates will continue to evolve until the fiscal year 1996 federal budget is finalized. Until then, all such estimates should be considered preliminary.

AGENCIES ESTIMATE THE BUYOUTS WILL SAVE TAXPAYERS MONEY IN FISCAL YEAR 1995

Twenty-seven of the agencies responding estimated they spent $336 million in fiscal year 1994 on the voluntary separation incentive payments. Agencies also made one-time retirement fund contributions of $26 million for employees to whom they offered buyouts. Thus, the total cost of the buyouts in terms of the voluntary separation incentives and the contribution to the federal retirement fund cost agencies about $362 million in 1994.

Most agencies said they did not realize any savings from the buyouts in fiscal year 1994 because the buyouts authority came too late to offset costs. However, for fiscal year 1995, 25 agencies projected savings of nearly $642 million from the fiscal year 1994 buyouts.

MOST AGENCIES REPORTED THAT WORKFORCE REDUCTIONS DID NOT AFFECT THEIR ABILITY TO PERFORM THEIR MISSIONS

Eighteen agencies believed that the decrease in staff that resulted from the buyouts did not affect their ability to perform their missions. In fact, seven agencies responding said the buyouts enhanced their ability to do their work. NASA, for example, said the buyouts allowed the agency to complete the workforce restructuring necessary following the reduction in the space station mission.

However, three agencies reported being adversely affected by the buyouts, citing the loss of expertise or corporate memory as affecting mission accomplishment. For example, one agency said: "The buyout has 'gutted' corporate memory * * * the number of key managers who left has resulted in a deleterious domino effect. Depth and coverage in certain offices * * * has been negatively impacted."

AGENCIES SAID VACANCIES RESULTING FROM BUYOUTS WERE NOT BACKFILLED BY CONTRACTORS

Sections (5g) of the Federal Workforce Restructuring Act prohibits an increase in service contracts as a result of implementation of the buyout provisions of the act, unless a cost comparison shows such contracts to be to the financial advantage of the government.

We asked agencies if they have used service contracts to perform the work of employees who left because of buyouts. Twenty-nine of the 30 agencies responding said they had not while the remaining agency was unsure. We also asked agencies if they had any requests for contract proposals pending to perform the work of employees who left with a buyout in fiscal year 1994. Of the 29 agencies responding, 26 reported they did not have such requests and the 3 remaining agencies were unsure.

We also contacted representatives of five major federal employee unions to ask them if they were aware of any increase in the use of service contracts to cover the work of employees who left under buyouts. None had any indication such backfilling was occurring. They said that while it may be too early to tell if agencies are using contractors in such situations, they were concerned that this could be a possibility in the future.

BUYOUTS SHOULD BE ACCOMPANIED BY ADEQUATE STRATEGIC AND WORKFORCE PLANNING TO MEET THE NPR'S REINVENTION GOALS

In its September 1993 report, *From Red Tape to Results: Creating a Government that Works Better and Costs Less*, the NPR called for agencies to initiate a series of management reforms that would allow the government to eliminate approximately 252,000 positions by fiscal year 1999 (since raised to 272,900). These cuts were intended in part to reduce the ranks of what the NPR called "management control structures" such as headquarters staff, supervisors, auditors, personnelists, budgeteers, and procurement specialists.

To ensure these management reforms would take place, the President, on September 11, 1993, directed each federal agency to submit a streamlining plan to OMB. Among the items agencies were to include in their plans were the steps being taken to reduce bureaucratic layers; flatten hierarchy; reduce headquarters staff; and pare down management control structures. These streamlining plans are an important part of the NPR's reinvention efforts because they direct agencies to initiate management reforms and workforce restructuring first, and the personnel reductions are supposed to result.

MANY AGENCIES WE SURVEYED REPORTED THEY ARE TARGETING THEIR BUYOUTS

The buyouts can be useful tool for agencies in helping them to surgically reduce and restructure their workforce where it is needed most. When asked whether their buyouts were targeted in any way, 11 of the 30 agencies in our study that said they offered buyouts in fiscal year 1994 indicated they had no specific targets, i.e., all eligible employees were allowed to apply. Of the remaining agencies that said they targeted their buyouts, the most frequent targets included specific, presumably higher grade levels; supervisors and managers; and employees in certain geographic locations.

NONFEDERAL AGENCIES WITH EXPERIENCE IN DOWNSIZING SAY THAT ADEQUATE PLANNING IS ESSENTIAL

Whether workforce reductions are targeted or not, private sector and nonfederal organizations that have already gone through downsizing stress the importance of adequate planning. In our ongoing review of the lessons learned by 25 private, state, and foreign government employers who reportedly downsized successfully, most said that planning—strategic, workforce, or a combination—was necessary before downsizing or making any changes in organizational structure. Strategic planning established organizations' future goals and work to be carried out. Workforce planning identified the skills that organizations would need in order to do that work and those skills that would no longer be required.

The nonfederal organizations that told us they did not plan for their restructuring and the skills they would need after downsizing said they ended up cutting needed employees, suffered skills imbalances, and were often forced to replace those lost through lack of planning.

NASA and the Department of Education were two agencies that reportedly did some careful planning prior to offering buyouts. NASA, for example, had to reduce its workforce after its space station project was curtailed. An agency official said that while NASA did not target its buyouts because it had a broadbased need to downsize, it gave priority to certain categories of employees. In order of priority, those categories included early-retirement eligibles; supervisors and managers grade 14 and above; all other supervisors and managers grade 13 and above; and all remaining employees.

As we reported in our August correspondence on buyouts at the Department of Education, we were told by Department officials that when the buyout legislation was still under consideration by Congress in the fall of 1993, the Department realized it could use buyouts as a workforce planning tool.[2] In October 1993, the Department's Office of Human Resources and Administration surveyed employees to determine who was likely to apply for the buyouts and how much it would cost the agency. Between late-April and mid-May, the Department accepted buyout applications only from those employees who were eligible for retirement (about 30 percent of the workforce).

Department officials told us that because of the buyouts, the Department was able to release higher graded employees in areas where workloads were decreasing, improve productivity, and restructure its workforce to better reflect new legislative priorities such as managing the Direct Student Loan program.

MANY AGENCIES' STREAMLINING PLANS FELL SHORT OF WHAT OMB EXPECTED TO ACHIEVE THE NPR'S REINVENTION GOALS

While OMB said some agencies supported their downsizing with adequate planning, the administration's response to agencies' streamlining plans suggests that the plans fell short of what was expected to meet the NPR's reinvention goals. One OMB official told us many agencies did not take the time or effect to develop their plans. As a result, the official said that in mid-August, following a review of the plans, OMB asked all departments and major agencies to submit improved streamlining plans no later than October 3, 1994. In so doing, OMB directed agencies to emphasize the restructuring of their organizations and work processes, and reflect the importance of a related reduction in the number of supervisors, headquarters staff, and support staff.

CONCLUSION

In analyzing the reported results of the buyouts to date, we believe most successfully helped agencies meet their fiscal year 1994 workforce reduction targets without resorting to RIFs. However, agencies were to accompany their workforce reductions with comprehensive plans detailing the management reforms and restructuring initiatives they intended to make to achieve the NPR's reinvention goals. To the extent that the resubmitted plans may still not meet the administration's expectations, agencies may be trying to meet their downsizing target without meaningful strategic or workforce planning.

This concludes my prepared remarks. I will be pleased to answer any questions the subcommittee may have.

Ms. NORTON. Yesterday, at a hearing of this subcommittee, Ms. Kingsbury, we were told, as you have indicated today, that GAO has surveyed a number of agencies—I think it was said that 37 had been surveyed—and that some agencies—I think the number 5 or 7 was used—responded that they believed that RIF's were likely. I would like to know what were those agencies.

Ms. KINGSBURY. I will be happy to provide that information to your staff. One of the agencies involved, USIA, I think is going to discuss that issue in their testimony later today.

I am a little bit concerned about simply announcing those agencies, because we are not sure that the agencies have announced it

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[2] *Buyouts at the Department of Education* (GAO/GGD–94–197R), Aug. 17, 1994.

to their own employees. And if they haven't, we could stir up a lot of disruption by throwing around agency names. Is it OK if I just give that information to your staff?

Ms. NORTON. Well, certainly, if you would simply provide that to the staff I would appreciate it. We certainly don't want to alarm anyone. Nor do we want to be the forecasters of layoffs that——

Ms. KINGSBURY. In the end may not happen.

Ms. NORTON [continuing]. May not happen, and as was the intent of the buyout, should not happen.

But let me ask all three of you, realistically, at this point, we—for example, the fiscal year 1995 goals, are layoffs expected? Mr. Koskinen.

Mr. KOSKINEN. We are, right now, at the start of the budget season. As a part of the budget submissions from the agencies we are getting both their budgetary proposals and their detailed streamlining proposals and the description as to how they are going to meet their FTE requirements for 1995. At this stage, we do not have the information from the agencies compiled yet as to how they are going to meet their 1995 ceilings. Although our expectation is, as noted by the other panelists, that the buyout authority which runs through March of 1995, will be used with larger numbers this year than last year. So we do not expect that there will be significant layoffs beyond the buyouts.

Ms. NORTON. I note that in the 1993 Defense Authorization Act, DOD was granted authority, buyout authority, through 1997, and we just approved an extension through 1999 in the fiscal year 1995 Defense Authorization Act.

Why was it necessary to extend buyouts for DOD? And how do you reconcile this with the administration's position that it will not seek an extension of authority for the rest of the Government, but would be, apparently, willing to rely on chaotic layoffs or RIF's which would obviously have nothing to do with efficiency and might set back whatever efficiency goals the National Performance Review lays out, Mr. Koskinen?

Mr. KOSKINEN. I am not familiar with the details of DOD. It has been running buyouts for some time and has its own set of unique problems at this time.

Our estimation is that, for the nondefense agencies, that the buyouts have served and will serve their function well, which is to allow the agencies to, as I said, jump start the process. But our expectation is that, with appropriate planning going forward, at this stage we have no indication that additional buyout authority will be necessary. Therefore, we have advised the agencies, and the agencies are contemplating proceeding without an extension of that authority.

Ms. NORTON. It is indeed the case that employees have come forward. The buyout authority is working well. If, in fact, you find that buyouts—if you find what you found with respect to DOD that led you to seek an extension of their buyout authority—if you find the same kinds of factors with respect to other agencies, would you consider requesting extension of buyout authority for other agencies as well?

Mr. KOSKINEN. Well, as I noted, I am not familiar with the details of what the DOD findings were. As a general matter, they have a very different force structure and set of issues which is why they historically have been treated separately.

As I say, at this stage we expect that the agencies will proceed over time effectively without additional buyout authority, so we have no plans at this point to recommend that there be any additional extensions.

Ms. NORTON. Mr. Klein, would OPM recommend—in the event that agencies had no choice to meet these quotas but to go to layoffs—would OPM be prepared to recommend to the administration that it consider extending buyout authority to civilian agencies as it has to DOD?

Mr. KLEIN. At this time, we would not. The current target for reduction in 1995 is about 40,000 to 43,000 people. If we get a major portion of that with buyouts, and understanding that attrition is low now, about 5 percent, but even at 5 percent we are looking at 100,000 people leaving Government. The remaining reductions over the next 5 years would be around 25,000 to 30,000 a year, with 100,000 turnover, and extra efforts by agencies to do some planning.

We are talking about eliminating one job out of every four that somehow vacate. If we can plan this well, and use the buyouts that have been approved for this early period in 1995, so that we get a jump-start on it, we don't believe we will need buyouts in the future.

We also——

Ms. NORTON. Go ahead.

Mr. KLEIN [continuing]. Believe that if we were to propose buyouts at this point for the future that, based on our past experience, people would delay. We want people to make their decisions now, to use this window to leave so that we can avoid RIF's in the future. We want to have the maximum use of the buyouts early on so that we can avoid adverse impact on our work force.

Ms. NORTON. Well, I certainly agree. We wouldn't want—my question was not, of course, intended to be an announcement that there will be buyout authority in the future but rather to test whether you are involved in efficiency streamlining or simply getting rid of employees, downsizing the Government to meet deficit reduction or other goals.

As you know, the subcommittee is concerned that the administration has proffered mixed goals. On the one hand, it says it wants to be efficient and has produced a brilliant document concerned with efficiency. On the other hand, it has undermined the credibility of that document by using numbers that changed with what appeared to be other needs, beginning at 100,000 and now, going, going, gone, we are up to 272,900. You can imagine that there is nobody in Washington who believes that the downsizing has been driven by efficiency.

So that, if on top of everything else layoffs occur, which point is the exact opposite of efficiency? Because who goes is random according to seniority and there would be great concern that this committee simply had not been dealt with this issue forthrightly. So is it going to be about efficiency? We are very concerned.

My next questions essentially have to do with efficiency. We are waiting now. We see the bodies gone. We see the people doing the buyouts. Now, we are ready for the other shoe to fall, the shoe that this was supposed to be all about, and that is increased efficiency in the Federal Government.

Mr. KOSKINEN. Well, I think that is the right focus, and that is, in fact, the major issue we are looking at with regard to the agencies. I think I would respectfully disagree a little that there are conflicting goals between efficiency and downsizing. Having spent——

Ms. NORTON. No, efficiency and deficit reduction. I didn't say between efficiency and downsizing. In fact, the administration was clear—it came to us with a clear notion that there were excesses in middle management and that we had about twice as many managers per employee as the private sector. It all sounded fine.

And then we asked about the number—this was before you were in office, Mr. Koskinen. We asked about the number 100,000, and where it came from. And nobody was ever able to give us a single basis, a single fact, a scintilla of a fact, to document the number 100,000.

And then the number kept going up. And then, of course, the administration lost credibility with the subcommittee and with the committee itself on the efficiency question because it never was able to relate the number—not the concept, but the number—to efficiency goals.

Mr. KOSKINEN. Yes, but then that—the 100,000 was issued before the National Performance Review completed its work. The National Performance Review did contain an analysis that, if you looked at the headquarters and supervisory numbers of employees in the Government, which are over 700,000, and you looked at the experience in the private sector that approximately half of those employees have been eliminated in most downsizings, those layers of review that have, in the new views of management theory, proven to be unnecessary, half of that number would be 350,000, so that the recommendation out of the NPR of 252,000 was, in effect, a lower recommendation than the experience in the private sector. The Congress then added another 20,000 to get to the 272,000.

But in the NPR streamlining goals of reducing headquarters functions by 50 percent and doubling the span of control with supervisors, it is clearly related to material they gathered and the studies they made of what has happened in terms of focusing organizational structure on removing unnecessary layers. So the 252,000, now 272,000, does have a basis in analysis, and, in fact, is lower than the experience in other institutional settings.

Ms. NORTON. Mr. Koskinen, I appreciate what you have said. It has all the appearance of an after-the-fact rationale, if I may be entirely frank with you. I would love to see how, if it is relating to efficiency, how that spans the agencies. And if it is a gross number that is related to efficiency it would be important to know how that fits with various agencies.

Mr. KOSKINEN. I think that is right, and, in fact, we have tried to make it clear in the OMB guidance in response to the streamlining initiatives that those goals are, in fact, rebuttable presumptions.

Each agency obviously has its own circumstances, its own structure, and I think it is critical that each agency's streamlining plan be evaluated on its own as you suggest. Because I think that is exactly right. The point is to make sure that each agency is doing its own strategic planning, its own analysis of what its needs are, its own analysis of how it can improve its efficiency.

Ms. NORTON. Now, in light of the concern with efficiency—and Ms. Kingsbury spoke as well of these streamlining plans, we were told from the very beginning of the hearings on buyouts, that plans to address buyouts would be utilized in order to avoid layoffs and that these plans would be submitted.

Then we learned that many agencies did not submit plans at all. That really baffled us. And then, that the quality of those that were submitted were unsatisfactory. Then agencies apparently by June 30 were directed or redirected to submit plans. And then OMB tells us agencies are supposed to submit revised streamlining plans by October 3.

How many agencies have—or have any agencies yet complied with this directive? If so, which ones?

Mr. KOSKINEN. Well, we expect that every agency will comply with the October 3 deadline.

The information you have is correct. For some agencies, the experience this summer was that, as you would expect in a new initiative of this kind, some of the agencies did very well. It is kind of like a bell-shaped curve. Some were at one end doing very well. A number were in the middle on the bulge of the curve struggling. And a handful were at the other end not having made significant progress at all.

We had meetings at the President's Management Council which had spent the spring and summer working with the agencies in the design of plans and the education of the agencies in providing resources as to how it might be done. The PMC, in fact, has collected a series of best practices showing exciting things that have been done in various bureaus and agencies to achieve streamlining.

OMB made it clear in its guidance that the budgetary submissions due on September 9 should include as much information as the agencies had at that time, but in early August we also announced to the agencies they would have until October 3, pursuant to the request of the President's Management Council to OMB, to present their revised plans. We understand all of the agencies will present those plans.

Last week, we spent 2 days at OMB with all of the examiners going over the details of what constitutes an effective streamlining plan, starting with a focus on the Agency's missions and goals and the relationship of the plan to improved efficiency within the Agency. And we expect the agencies will submit those plans.

But also we expect, again as a part of an ongoing process, that not all agencies will have final and complete and totally acceptable plans, but we also expect that they will continue to work on those plans under OMB guidance and with the President's Management Council.

Ms. NORTON. Well, so you attribute the difficulties that the agencies are having are inherent in the need for changing deadlines, and to the fact that they have not done this before?

Mr. KOSKINEN. That is correct. This is an initiative that the agencies have not done. The agencies that by the summer were able to achieve reasonable amounts of success, and there were several of those, to a large extent reflected the fact that within those agencies they had senior leadership that had participated in these kinds of experiences in their earlier careers.

We have spent a lot of time providing seminars and streamlining discussions and resources. One of the reasons we collected, through the President's Management Council, examples of best practices, including the names and addresses and telephone numbers of those who had led those restructuring efforts, was to try to provide the agencies with background educational material and resources upon which they could draw.

The Federal Quality Institute and the NPR have also been working with agency managers and personnel, and we think that the quality of the streamlining effort and the theoretical analysis behind it and the strategic planning is improving significantly.

Ms. NORTON. There—one gets a kind of reinvention-of-the-wheel notion as I hear you talk.

Here we have the Department of Defense that has been doing buyouts for 30 years and has recent experience doing them, and all the testimony that has come before us has been that they have continued to do them very well. It is hard to believe that agencies in the same Government with this kind of background and experience wouldn't have had access to this experience so that we wouldn't have had difficulties at the threshold with streamlining plans.

To what extent has this model been, in fact, utilized by the rest of the Government?

Mr. KOSKINEN. Well, I would note that the issue of buyouts does not necessarily correlate with restructuring and streamlining, as a general matter. As you have noted in your concerns, you could buy out a lot of employees and do nothing about strategically redirecting the focus and the energy of a work force in where it is going.

Buyouts, in many cases in the private sector as well, are graceful means of reducing the size of an employment base without necessarily restructuring the operation of that base.

What we are talking about in the Vice President's initiatives and the NPR is actually rethinking fundamentally the way agencies go about their work. The buyouts are a useful way of dealing with employees at the front end as you begin to reduce supervisory layers and headquarters staff, but the mere existence of a buyout program does not guarantee you that you will appropriately address those questions.

And that is where we are actually working with the agencies, because that is the ultimate bottom line. If we are going to, in effect, equate restructuring and downsizing of an agency with improved efficiencies, that will only happen if we restructure the way agencies operate.

Ms. NORTON. So the difficulty, then, the agencies have had, is with the restructuring notion?

Mr. KOSKINEN. That is correct. The agencies, as noted by the other panelists, have clearly, very effectively and appropriately, used the buyout legislation, but that by itself does not indicate whether or not it is concomitant and part of an effective streamlining plan.

Ms. NORTON. This committee has learned that the administration directed agencies to prepare their streamlining plans such that 50 percent of the desired personnel cuts would be made in headquarter offices in the Washington metropolitan area. Is that true?

Mr. KOSKINEN. No. There has been an assumption that that was true when the NPR talked about reducing headquarters staff by 50 percent. And a number of people, including several of the agencies, thought that meant that you had to reduce 50 percent of the people who happened to be sitting in a headquarters building in Washington and that was the definition.

We made it clear in the guidance from OMB that the analysis of headquarters staff is a functional analysis, not a locational analysis, that you may have people performing supervisory and headquarters operations outside of Washington. Similarly, a number of people working in Washington are not performing headquarters functions.

Ms. NORTON. You say you made that clear. Have you made that clear in writing?

Mr. KOSKINEN. Yes.

Ms. NORTON. Could you submit a copy for the committee?

Mr. KOSKINEN. I would be happy to have that submitted for the record.

Ms. NORTON. Thank you.

[The information referred to follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DEPUTY DIRECTOR

M-94-29

August 19, 1994

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND MAJOR AGENCIES

FROM: Alice M. Rivlin
Acting Director

SUBJECT: Streamlining Plans

The Vice President recently reiterated the great interest of the Administration in the development of streamlining plans and the importance of efforts to improve them. Review of the streamlining plans will be an extremely important element of the budget process.

Many of you already have had discussions with OMB staff about your June 30 streamlining plans and the FY 1996 budget, and this dialogue with all agencies will continue. As you know, your FY 1996 budget request is due on September 9 and must include as much streamlining information as possible. It is especially important that your budget request contain the full details of your plans for FY 1996 with the milestones of actions to meet the overall workforce restructuring and FTE targets in OMB's April 21, 1994, planning guidance (attached).

To reinforce these efforts, the President's Management Council (PMC) recommitted itself to the goal of restructuring the government and will be especially active in working with OMB and helping agencies improve their plans in accordance with the April 21 guidance. The PMC has committed its agencies to submit complete, improved streamlining plans to OMB not later than October 3. These complete plans will focus greater attention on restructuring of the agency organization and work processes and will reflect the importance of related reductions in the number of supervisors, headquarters, and support staff, as recommended by the National Performance Review (NPR). (The NPR's overall goals include a doubling of the span of control of supervisors from 1:7 to 1:15 over the next five years and a decrease of 50% of those performing headquarters functions.)

In response to the PMC's request, OMB has further refined the headquarters definitions in Attachment D of the April 21 guidance. (Revision attached.) Those agencies that can not meet the NPR goals in this area should address this matter in their plans. Within the context of the April 21 FTE guidance, each agency should display the FTE reductions it will take as a result of restructuring separately from any additions due to new Presidential investments. The plans also will describe the relationship of the agency's restructuring to other Administration priorities, including improved customer service.

Attachment

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

April 21, 1994

M-94-19

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Leon E. Panetta
Director

SUBJECT: FY 1996 Budget Planning Guidance

As agencies begin planning for the FY 1996 Budget, we face the difficult task of developing a budget that reflects the President's priorities within the constraints of the hard freeze mandated by the Budget Enforcement Act and the reductions in employment mandated by the Federal Workforce Restructuring Act. Consistent with the schedule for preparing the President's FY 1996 Budget distributed last month, preliminary planning guidance for the FY 1996 Budget for your agency is attached.

The basis for the guidance is the outyear numbers contained in the President's FY 1995 Budget, adjusted to reflect Congressional action on some Administration proposals and the allocation of certain allowances. It should be noted that the guidance does not reflect additional reductions in the discretionary caps pending before the budget conference.

The attachment contains:

- discretionary budget authority and outlay levels for your agency for FYs 1996 – 1999;
- approved FTE levels for FY 1994 and FY 1995;
- aggregate FTE guidance levels for FYs 1996–1999 that are consistent with the Government-wide FTE levels established by the Federal Workforce Restructuring Act; and
- the approved level of buyouts permitted for FY 1994.

Agencies are expected to prepare FY 1996 Budget requests for discretionary budget authority and outlays and FTE employment that do not exceed the levels specified in this guidance. In addition, you should submit to OMB by June 30th updated streamlining plans that describe how your agency will meet the specified FTE levels. Instructions on how to prepare these streamlining plans are attached.

Revised guidance may be issued in July to reflect further Congressional action and other factors. In that case, agencies will be asked to adjust their budget requests accordingly. Guidance on the funding of mandatory programs may also be provided at a later date.

As noted on the FY 1996 Budget preparation schedule, initial budget submissions are due to OMB on September 9, 1994. Agency plans for FY 1995 buyouts should also be transmitted on that date.

I know that these guidance levels are very tight. Nevertheless, I know that by working together we can formulate a budget that maximizes funding for the President's priority initiatives within the limited resources available.

Attachments

STREAMLINING PLANS

In his September 11, 1993 memorandum, the President directed each agency to prepare a streamlining plan that would show how it would restructure its work force in order to achieve the work force reductions recommended by the National Performance Review. The Federal Workplace Restructuring Act of 1994 places the reduction in law by setting ceilings on Executive Branch employment for FY 1994 through FY 1999. The total FY 1999 reduction is 272,900. The Act requires OMB to monitor compliance with the ceilings, and to impose a Government-wide hiring freeze in the event that the ceilings are not met.

The Act does not impose agency-by-agency ceilings. Our goal is see that, within the statutory ceilings, agency FTE levels are aligned with program requirements and anticipated funding levels. On average, achieving the 272,900 reduction by FY 1999 means a further government-wide reduction of 8 percent from the level in the FY 1995 Budget. However, this reduction will not be applied uniformly to each agency.

Accordingly, and consistent with FY 1996-1999 planning guidance, each department and agency with more than 100 FTE should prepare an updated streamlining plan that meets the President's guidance to restructure the work force and improve customer service. Your plan should be submitted to OMB by June 30, 1994. Specific guidance on the contents of the plans follows in Attachments A - D.

Reducing the size of the work force by 272,900 is not an end in itself, but results from systems and management changes recommended by the National Performance Review to make organizations and operations more effective and responsive to their customers. We in OMB look forward to working with you and the members of the President's Management Council to achieve the President's goals.

Attachments

Attachment A

GUIDANCE FOR PLANS

Plans should describe, with narrative detail and supporting tables, changes in the structure and operations of the department or agency. Plans should include steps being taken to create lean structures, reduce layers of bureaucracy, flatten hierarchy, stimulate high performance practices and empower employees to serve customers with one result being fiscal saving. Plans should also reflect actions to change the composition and skill mix of the work force, including numbers of headquarters staff, changes in field structures, delayering, and reductions in numbers of NPR target populations.

Streamlining plans should:

1. Be consistent with priorities in the FY 1995 Budget and FY 1996-1999 planning guidance,

2. Be integrated with 1996 Budget submissions,

3. Explore <u>every</u> opportunity for streamlining, including simplification of administrative processes, and elimination of certain programs. Attachment B contains a listing of possible streamlining actions we would urge you to consider,

4. Project realistic work force levels. Please show, in the format illustrated in Attachment C, by year and major program, how you would allocate FTEs through FY 1999,

5. Include supporting data, in the format illustrated in Attachment D, to reflect actions which change the composition and skill mix of the work force and can be used to measure progress toward the President's streamlining goals,

6. Provide details regarding both how and when streamlining actions will occur,

7. Describe any important assumptions, obstacles to implementation, and impact (both positive and negative) on agency performance.

Attachment B

POSSIBLE STREAMLINING ACTIONS

To think about streamlining in the broadest terms, the questions below suggest tools and opportunities which may be useful. Many lend themselves to combinations with each other; others can be applied independently.

Overall --

1. Character of the plan. Is the streamlining plan characterized by:

    (a) Delegation of authority?
    (b) Decentralization?
    (c) Empowerment of employees to make decisions?
    (d) Mechanisms to hold managers and employees responsible for results and accountable for their performance?

Mission and functions --

2. Federal role. Does the plan address the roles of Federal, State and local government? Has the agency attempted to re-define which level of government should have responsibility for service delivery?

3. Mission redefinition. Can savings be made through redefinition of the mission of the organization and restructuring of the program? Are there opportunities for savings from inter-agency cooperation and re-alignments?

4. Low-priority functions. Does the plan consider eliminating operations which cannot be readily tied to agency mission or service delivery?

Staffing levels --

5. Span of control. Does the plan consider alternatives to approximately double the present span of control?

6. Attrition rates. Given today's attrition rates for the agency, are the assumptions in the plan reasonable?

7. Hiring Freeze. Does the plan restrict agencies to hiring one person for every three, four, etc. which leave the agency?

Organizational restructuring --

8. Field structure. Can the field structure be redesigned by eliminating layers or consolidating locations? The restructuring of USDA to create a Farm Service Agency and consolidate field offices is the best current example. [1]

9. Regional, area and district offices. Can regional, area, or district offices be eliminated?

10. Vertical layering. Can layers of oversight be reduced, using significantly fewer people and noticeably fewer organizational layers? Are there situations where there are two (or more) political appointees stacked within a hierarchy? Delayering might include systematically removing redundant layers, excessive controls and bottlenecks in both headquarters and field organizations. An example would be to eliminate program assistant secretary positions that layer bureau chiefs.

11. Consolidation. Are there opportunities for organizational consolidation of like or similar functions? Consolidation should be considered where headquarters, regional and district offices perform the same functions. For example, the Secretary of HUD has announced plans to change all of its regional offices into field offices directly serving the states and metropolitan areas where they are located. This streamlining effort simultaneously reduces a level of review and gets more HUD employees closer to their customers.

Management improvements --

12. Micromanagement. Does the plan address ways to reduce unnecessary controls and micromanagement which now generate "red tape" and hamper efficiency in the Federal Government?

13. Delegation and decentralization. Can central management operations be delegated to subordinate agencies/offices?

14. Unnecessary duplication. How has the agency scrubbed its functions and activities to eliminate unnecessary duplication?

---

[1] The six federal agencies with the largest total number of field offices or installations are: USDA - 16,982; HHS - 5,000; Justice - 2,342; Treasury - 2,250; Interior - 1,700; and DOT - 1,800.

Re-engineering --

15. Change current operations. Can the agency completely redesign work processes to simplify methods used to deliver quality customer services? Possibilities here include situations where levels of management (or process steps) pose significant bottlenecks in delivering service to customers.

16. Increased flexibility. Can staff be reduced by providing subordinate managers with the flexibility to develop alternative approaches to performing their missions?

17. Internal simplification. Does the plan propose specific measures to eliminate or simplify the internal administrative processes?

18. Internal regulations. Does the plan take into account the elimination of not less than 50 percent of the agency's internal management regulations that pertain to its organization, management or personnel matters.

19. Senior-level positions. Does the plan contemplate senior-level job restructurings as current incumbents retire?

Technology --

20. Information technology. Does the plan capitalize on information technology? Changes in technology historically drive shifts in structure and power, and the information revolution is no different.

Effects --

21. Benefits. Does the plan seek to realize cost savings, improve the quality of Government services, and raise the morale and productivity of the department or agency?

22. People. How does the plan deal with the employees who will be left? Does the plan provide for a means to ease transition for workers, whether they choose to stay with the government, retire, or move to the private sector? How does it address their morale? How does it deal with possible increased workloads?

Attachment C

DEPARTMENT OF XXXXXX

FTE PROFILE - FY 1993 to FY 1999

	FY 93 Base	FY 1994*	FY 1995*	FY 1996	FY 1997	FY 1998	FY 1999
Program A							
Program B							
Program C							
Program D							
TOTALS							

Agency FTE profiles should reflect the work force levels the agency plans to achieve. Agencies should define the stub for this table in ways that best illustrate their plans and the effect on priorities and programs.

(* figures in the President's FY 1995 Budget)

Attachment D (Revised) August 19, 1994

DEPARTMENT OF XXXXXX

FTE and STREAMLINING - FY 1993 to FY 1999

	FY 93 Base	FY 1994*	FY 1995*	FY 1996	FY 1997	FY 1998	FY 1999
FTEs							
Supervisors							
Supervisory Ratio							
Headquarters staff							
Personnel specialists							
Budget specialists							
Acquisition specialists							
Accountants & Auditors							
Organizational Layers							

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(Revised ˉ , 19, 1994)

_.finitions:

Supervisors: Employees, including any SES, identified as a supervisor or manager in FPM letter 298-46 [Oct 26,1993] and reported in CPDF codes 1, 2, or 3.

Personnel Specialists: Employees that perform personnel functions, such as staffing, classification, position management, or labor relations. NPR counted people in the 200 series (except 204 and 205).

Budget Specialists: Employees that perform budget functions, such as program or budget development, review, or analysis. NPR counted people in the 560 and 561 series.

Accountants and Auditors: Employees that perform accounting and auditing functions, including financial and management audits. NPR counted people in the 500 series except 512, 526, 545, 560, 561, 570, 592, and 593.

Acquisition Specialists: Employees in acquisition and procurement functions. NPR counted employees in the following series: 1101,1102, 1103, 1105, 1106, 1150, and 1910.

Headquarters Staff: Anyone who works in the following functions or organizations [**NOTE**: This is a functional definition. Some people who work in Washington are not in headquarters and some headquarters organizations are not in Washington. For instance, regional or district offices are usually headquarters organizations.]:

- Management Headquarters and Headquarters Support Functions. Those functions and the direct support integral to their performance that are involved in the management of programs and/or operations of a department or its components.

- Management Headquarters and Headquarters Support Activities. Organizations where more than 25% of the work of the organization is involved in management or direct support functions.

  - Management. Refers to exercising oversight, direction, or control of subordinate organizations or units through: [1] developing or issuing policy guidance; [2] reviewing or evaluating program performance; [3] allocating and distributing resources; or, [4] conducting mid- or long-range planning, programming, or budgeting.

  - Direct Support. Refers to professional, technical, administrative, or logistical support that is performed in, or supplied to, a management headquarters and is essential to its operation. Direct support includes both staff support (such as providing policy or program analysis or formulating policies, plans, and programs for a management headquarters) and operating support (such as secretarial, editorial, or information technology services). Direct support does not include specific products or technical or operating services that are provided on a department-wide or component-wide basis (such as payroll services) or operating support provided by a host unit to all tenant organizations.

Ms. NORTON. Is there evidence that the problem that was originally cited, the supervisor-to-employee ratio, is indeed being remedied by the way the agencies are using their buyout and targeting their buyout authority?

Mr. KOSKINEN. I am sorry—is there evidence that it is being limited or——

Ms. NORTON. Is there evidence that the supervisor-to-employee ratio, which was the early target of the buyouts, in fact, is drawing closer to the usual ratio in the private sector?

Mr. KOSKINEN. Yes. In other words, the goal is to double the span of control of a supervisor or cut in half the ratio of employees to supervisors. And we are moving in that direction, and the buyouts are a critical part of that because, as you can tell by the statistics provided by OPM, the people who are participating in the buyouts are primarily older and more senior executives, and they fit into that classification. So it is a very important classification.

Again, we have asked in the 1996 budget presentations with the streamlining plans that the agencies discuss and particularly focus on how their plan works toward expanding the reach and control of the supervisory levels. We think that is working, moving in the right direction.

Ms. NORTON. You don't have any figures yet to give you any sense that that is happening? Or is it simply the fact that they are older employees that gives you confidence that this ratio will fall into line?

Mr. KOSKINEN. We do not have those figures now, but in our conversations with the agencies this summer, it has been clear that that is one of the goals they all understand and actually are moving toward. And we will see, as the plans are presented and as the restructurings take place, the actual impact of that issue.

Ms. NORTON. Ms. Kingsbury, you are certainly less confident that the management goals are indeed being achieved through the present downsizing.

Ms. KINGSBURY. Well, I am less confident that there is systematic strategic and work force planning that really, as was described in theory, is grounded initially in the missions of the agencies and deals with how best to carry out the duties and responsibilities of those agencies. We see relatively little evidence that decisions are being made on that basis.

We do, by the way, at least in terms of the agencies' reports, see somewhat more specific targeting of the buyouts to, in some agencies, SES level, in other agencies more frequently GM–13- to 15-level people who are normally the supervisors in agencies. And there is some awareness, at least in their reports to us, of the targeted doubling of the supervisory ratio, but I must respectfully continue to be skeptical of the analytical basis of that as an objective.

When we have in the past looked at supervisory ratios in the private sector there has been no consensus about what the best one is. I think it goes to what the function of the organization is. And I would be a lot more comfortable about this decisionmaking process if we were seeing evidence that agencies were, in fact, thoughtfully dealing with how many supervisors they need.

If you look back over the history of government, there tends to be cycles in these things. And I am looking forward to the potential of reporting to this committee a few years down the pike that we have problems in the Government because there are too few supervisors.

I don't know where that is going to go. I am not necessarily predicting that. But I see no real analytic basis for either the supervisory ratio or, frankly, the 272,000 figure either.

Ms. NORTON. Until that number is dealt with analytically, it remains, as far as I am concerned, a number. One can always take a number like that and find some basis for it, and I invite Mr. Koskinen to submit to the committee as he continues to work in this area—I know he has only recently got to the Government—a stronger basis.

Ms. Kingsbury, your testimony indicates that 11 of the 30 agencies in your own study said that they offered their buyouts, without specific targets, to all eligible employees.

Ms. KINGSBURY. Yes, ma'am.

Ms. NORTON. And that really bothers me, because that flies in the face of efficiency restructuring. And I wonder if you could expand on that.

Ms. KINGSBURY. Well, we didn't get very many details from the agencies, and I have to acknowledge up front that when the General Accounting Office had a period of buyout a year ago, we also offered it openly to everybody in the organization. But that can be done with work-force planning. And I believe we did that.

Ms. NORTON. You did it with work-force planning?

Ms. KINGSBURY. We systematically offered it across the organization, but we systematically looked at who might be likely to take it. We systematically planned as managers for how we were going to fill in behind those people if they did leave. We systematically looked at the structure of our organization, and once the buyouts went through we changed it.

Ms. NORTON. Let me stop you. Why did you offer it agencywide in the first place instead of systematically offering it where you thought the need——

Ms. KINGSBURY. Well, largely it was an equity matter. It becomes difficult in some circumstances, I think, to look at one employee who has done a very good job, that maybe you would even really rather they didn't leave, and say I am not going to offer this benefit to you even if you want it.

We also have an unusual situation that our employees, most of our work force are evaluator or in evaluator-related positions. They are to some degree interchangeable. So we could deal with downsizing in one function by reassigning people from another function fairly readily.

So I think our situation may be different from some circumstances where you have specialized needs like the Federal Aviation Administration, for example, did not offer buyouts to air traffic controllers. I wouldn't quarrel with that for a minute. I think that was entirely a sensible thing for them to do.

But other organizations may be able to do it, and there is some evidence that some employees are concerned that this opportunity is not being offered to them.

Ms. NORTON. Well, I don't blame them. But what does that have to do with efficiency and downsizing the Government?

Ms. KINGSBURY. It is a matter of how you plan it. I would argue the planning—the important thing is to plan it.

Ms. NORTON. This is an interesting ingredient in this—in this puzzle. The notion that some employees would like it is perfectly understandable. Do you think that agencies are being significantly influenced by the desires of their personnel on whether or not buyouts should be offered, at what level and to whom?

Ms. KINGSBURY. Well, if you look at the experience of the private sector where buyouts were offered, if you look at the—or other organizations that have downsized, some concern for the morale of the surviving work force is a factor with those organizations that have done so successfully.

I am not saying it is the dominant concern. It certainly should not be. The strategic mission of the organization, how they plan their work, how they plan to conduct their business in the future, should be the dominant concern. And I would argue, in our case it was.

Now we have not looked at the other organizations that have done that. I understand from our survey, for example, that the General Services Administration has offered it broadly. You might ask them about that later.

Ms. NORTON. Did you not offer your buyouts before general authority came through?

Ms. KINGSBURY. Yes, ours played through a full year ago.

Ms. NORTON. Was yours largely related to reduction in costs?

Ms. KINGSBURY. Ours was a recognition of the legislative branch's objective to downsize its work force, and we felt we had the obligation to manage that process for our organization as well as we could. And we sought the buyout authority specifically to do that, and we achieved our 5-year goal with that single buyout period.

Ms. NORTON. It should be noted for the record, the Congress, in seeking to reduce its own work force—and, of course, the GAO is a part of this branch—certainly did not have efficiency goals in mind. And, I think, the GAO was faced with the notion that it had to make sure it came within certain goals.

Now, I wonder if any of you have seen any problems agencies believe they are having because of the limitations put on the buyout authority, such as the backfill limitation and, of course, the 9-percent payment for early-outers, including the cap on the amount of the buyout. Have these limitations been a specific problem for any agencies?

Mr. KLEIN. We haven't been aware of any complaints on those from agencies.

Along the lines of your previous question, we receive numerous contacts from both employees and agencies. We have a hotline in our office for the buyouts, and we get about 200 calls a day. The overwhelming complaint, if you can call it that, from employees is that they didn't receive a buyout offer and the person in their carpool did. And that person was in a different bureau and the agency had made a decision that that bureau was not going to receive an offer and another one would.

That gives us a little bit of comfort that there is some thinking going on about where agencies want to offer the buyouts. But the agencies haven't complained that the 9 percent or the paybacks have been a problem thus far.

Mr. KOSKINEN. And I am not aware of any of those problems either. I think that they have been able to deal with those constraints as part of the program.

Ms. NORTON. Ms. Kingsbury?

Ms. KINGSBURY. I think they have dealt with it, but our understanding is that agencies would like to offer more buyouts than they are financially able to do. And one of the financial factors is the requirement to make the retirement contribution. If that were not a limitation, they could offer more buyouts. And, at least, some of them have told us that they would like to offer more than their current financial situation permits. If that is an indicator, I would say the limitations are having an effect.

Ms. NORTON. Now, aren't there some agencies that are having a fairly weak response to buyouts? Are all agencies having more comers than they can use?

Mr. KLEIN. I think generally there is a broad range of interests in all the agencies. Of course, some agencies don't wish to use buyouts very broadly, because they don't see their work force declining in view of their particular mission and budgetary situations. But, I think, there is a general high level of interest out there in buyouts. And we hope that will have the effect of preventing some future reductions, if we can get that kind of interest.

Ms. NORTON. So you don't anticipate that people would actually have to go to layoffs because they couldn't find enough people who wanted to be bought out?

Mr. KLEIN. I don't anticipate that. No.

Ms. NORTON. Ms. Kingsbury, have you found any agency——

Mr. KLEIN. I think there were five agencies that Ms. Kingsbury's staff identified as possibly having a problem. But, as you know, half the agencies haven't had their appropriations completed yet. There is a lot of uncertainty at this point in time. I am confident we are going to come very close to our targets with the buyouts and normal attrition.

Ms. NORTON. Ms. Kingsbury, why would agencies be contemplating the possibility of buyouts—of layoffs, if, in fact, people are enthusiastic about the buyout alternative?

Ms. KINGSBURY. In the short period of time that we had to collect the information for purposes of this hearing, we have not had a chance to go back to the agencies and talk to them about the specific circumstances.

When they answered the question we asked, that it was somewhat likely, or very likely, that they would have to have reductions in force, we are aware in one case that the problem is a set of construction projects that are being totally closed down in a given location. And that is a kind of situation which probably would not lend itself to solution from a buyout perspective.

We intend to look much more closely between now and spring of next year as we look at how this program plays through in total to be able to tell you the story of those particular circumstances.

Ms. NORTON. When this sort of thing has happened to DOD, with the reauthorization of buyouts, DOD is harder in a real sense than some of the agencies. What they do often is very specifically related to projects that are no longer in existence or that have been cut back. And yet, DOD has had to do very few layoffs. Ms. Kingsbury, to what do you attribute the success at DOD in mitigating layoffs?

Ms. KINGSBURY. Well, we have not specifically looked at DOD. We have talked occasionally to DOD officials and one of the things that has impressed me about that, is that—DOD is a very large agency. So in any given geographic area, if they want to reduce one part of their function, they have taken the position of offering buyouts in other parts of DOD that have organizations in that location in order to facilitate the placement of people who might have to be otherwise laid off. And my impression is that their ability to do that across military service agency lines has helped them a lot in avoiding layoffs.

In the nondefense area, even when there are two agencies that are collocated in a given geographic area, there doesn't seem to be any mechanism for that same kind of flexibility to play out.

Ms. NORTON. Is there anything inherent in the nondefense agencies that would keep them from developing that kind of——

Ms. KINGSBURY. Cooperative arrangement?

Ms. NORTON. Yes.

Ms. KINGSBURY. I would have to look at the question of exactly how the buyout authorities are authorized. I would think that that could be coordinated through OMB.

And, in fact, if you look at the case of the Department of Education, which is an organization that has done some considerable planning around this, they actually went to OMB and asked for more buyout authorities than their FTE reductions required, specifically with the objective of realigning their operations to assume a whole new responsibility which you may recall they got this year, to manage the direct student loan program. That is the kind of—and OMB was able to do that because there was some FTE offset available in fiscal 1994 from other agencies.

Whether that can be facilitated in the future, I don't know enough about the details to know. But there is, at least, that one example of where that sort of thing has happened in the past.

Ms. NORTON. Mr. Koskinen, one of the challenges, that it seems to me, you may face in light of the clear relationship you see between downsizing and restructuring is the contrast that came out at yesterday's hearing.

Despite the fact that DOD is located all around the country like a multinational corporation with many different facilities with the same kind of jobs that we have in the civilian sector and extraordinary diversity with jobs of the kind that span the work force in the private sector, despite that, DOD has learned to preserve the investment the Government makes in knowledge and training of its employees by trying to place them on a mandatory basis.

I mean that DOD has figured out what the private sector long ago figured out. If you got your own money and investment in an employee and an employee is qualified and good, why in the world give him to somebody else already trained and knowledgeable?

In the non-DOD agencies, admittedly, it is more difficult because they are not part of the same network, but we did not hear in Mr. Klein's testimony, and in other testimony yesterday, that the nondefense agencies were thinking through restructuring and cross-utilization of their employees in the way that DOD clearly has. And, thus, we were presented with the anomaly that DOD requires its various sections, facilities and departments to offer a job to a laid-off employee, whereas the administration opposed doing that in the nondefense agencies.

And it looked like we had a two-tier government here, and a government where there are a set of privileges. If you happen to be a computer operator or a secretary in DOD, and if you have precisely the same skills in the Department of Education, you couldn't be assured that you would be offered the job at the EEOC even though they need precisely what you have to offer.

So we were very concerned at the difference between the use of our own trained personnel in half of the Government, the DOD, and the way in which the other half regarded its obligations to itself to use its own employees that it has trained and its obligation to observe its own employees, for goodness sake.

I would like to know what you think about the difference between a rule of that kind between one half of the Government and the other half of the Government.

Mr. KOSKINEN. I think there is a significant difference in facilitating that kind of operation and mandating it across the board. I think one of the goals of trying to make the Government more efficient is to try to look at our personnel policies to make them more productive. We have, I think, enough constraints on what agencies can do with personnel. To add a mandatory constraint and try to implement that across all of the wide range of civilian nondefense agencies, I think, would create more problems than it would solve.

Ms. NORTON. But not at defense agencies?

Mr. KOSKINEN. Pardon?

Ms. NORTON. But not at defense agencies? Doesn't it create more problems than it solves at defense agencies?

Mr. KOSKINEN. Defense agencies, ultimately, work in the same structure with the same leadership with, ultimately, a lot of similar training and mission. When you are looking at the wide range of differences——

Ms. NORTON. Don't the Army and the Navy have similar training and mission?

Mr. KOSKINEN. My understanding and I am not an expert on the military, but my understanding is that the systems of command and control——

Ms. NORTON. I am talking about civilian employees, Mr. Koskinen. I am not talking about——

Mr. KOSKINEN. I am just talking about the fact that you have to distinguish between facilitating things and mandating them. I think if you consider——

Ms. NORTON. Why do you allow them to be mandated in the Department of Defense between the Air Force civilian employee and an Army civilian employee? And have you even looked to see whether or not you might do the same thing with other employees? Are we just going to, out of hand, say we just don't want to even try to do that, even though we are restructuring the Government to make it more efficient, and even though we have invested in these people the same way we have invested in civilian employees at the Department of Defense?

I don't understand this notion that off the top of our heads it couldn't possibly be done, and off the top of our heads anybody could see that there are differences in command structure which makes everything happen willy-nilly there, and it couldn't possibly happen with our agencies here, and we are not even going to try to see if it could happen.

Mr. KOSKINEN. I don't think anybody says off the top of our head it can't be done. I think, what we are saying off the top of our head, that you cannot immediately make the leap that because you can, within a single agency, mandate that there be offers made to people who are going, that you could accomplish efficiently the same thing by mandating it across all Government agencies.

I think your point is well taken, that we have an investment in what I view as the very outstanding quality of Federal employees. We put a lot of time and energy in it. Most of them are excited about, and interested in, working for the Government. They came to work for the Government not only to take a job, but because they were interested in the mission of the agency that they went to join. We ought to do whatever we can to maximize that.

In many of the agencies they are doing that in their planning. They are, wherever available, moving—as noted, there is a substantial amount of attrition over time, and that allows agencies to fill and move people along. I think the point is well taken, is that they have to plan accordingly.

That is why the reduction in force, over time, of the Federal work force of the 272,000 is over a 5-year period, so that, in fact, you can plan. One of our obligations is to make sure that the agencies effectively do that.

But, as we have noted, and I think the GAO studies have been very good about noting, the agencies all have a number of very different missions, they are in very different circumstances. And, for us to across-the-board impose lock-step rules makes it very difficult.

As you noted earlier, what we have to do is look at each agency, see what their thoughts are, what their planning is, how they are dealing with their work force and make sure that that is efficient.

I think we will continue to find that there are no single, universal answers that we can impose on all the agencies if we expect to allow them to respond to their own circumstances and to utilize their own resources. But that is not inconsistent with saying that we should encourage them wherever possible—and, hopefully, they will be rational enough to understand that point themselves—to take advantage of the existing expertise, information, and loyalty they have in their own employees.

I think that we need do that. In fact, one of the purposes of looking at the way work is done is to create a more interesting and challenging, exciting workplace for our Federal employees so that we remove some of the obstacles to their ability to achieve their job and their mission.

I think we can do that, but, I think, to immediately say that what we ought to do in lock step is make an enforced, mandatory personnel policy across all agencies is not necessarily going to make our job easier.

Ms. NORTON. I would be the first to concede that Federal Government is attempting in nondefense agencies what it has not done before. Indeed, buyouts are new to this part of the Government, and there is lots of planning to be done in your own streamlining plans and the need to work more closely with agencies so that you don't have to set ever later deadlines to indicate that there are difficulties involved in bringing these agencies along.

The fact is that it is one government, and we are about restructuring government. This is the import of your own testimony, not downsizing government but restructuring government. Part of what we want to do is not simply make them more efficient islands unto themselves but to make sure that that efficiency is shared throughout the Government.

So it would seem to me that one of the purposes of downsizing ought to be to make sure that the Government does not train people in one agency and put them out the door in another one.

For example, if it comes to layoffs—and I am encouraged by the testimony that has been offered that that will not, or may not, be the case, but you can imagine how inefficient the Government looks and how low the morale of an employee would be if we get to the point where we have to lay off employees. At that point, your restructuring rationale goes completely out of the window, and we are back to where we, frankly, have been up to until now, to meeting the quotas that have been set for agencies as a part of the budget plan through 1999.

So you could have a situation not in DOD but in the nondefense agencies, where somebody who came to the Government, was promoted within the Government, had an excellent rating, but through layoffs and bumping lost their job.

You can tell me that, "oh, well, of course that person is going to be hired by somebody else." I can tell you that the experience of the Government is not like that, that often people want to hire who they wanted to hire in the first place. There was some testimony that there is sometimes suspicion of people who come from other agencies, or "they don't know the culture of our agencies and the rest of it."

But you can imagine how insane the Government looks and how depressed an employee would be that, because of a RIF, the employee lost her job and there was no obligation anywhere in the Government to employ that excellent employee. That is very difficult for this committee to accept as a rational way to go about restructuring and making the Government more efficient.

So I accept absolutely that this hasn't been done before; that if you work across agencies that have not had communication lines of that kind before, then they have to be developed. But, again, if it is your goal to make the Government—to restructure the Government, make it more efficient, all we ask is that that goal be governmentwide and that the difficulty, which I accept as inherent in it, be taken as a challenge like the other challenges of restructuring have been taken.

In any case, it is very hard to swallow that the most diverse agency in the world, the DOD, can somehow learn to do it and the rest of the Government couldn't.

We would like to ask you now about the bill.

I have one more question for Ms. Kingsbury, however, and that is that her testimony indicates that three of the agencies surveyed reported that they had been actually adversely affected by buyouts inasmuch as they had lost some of their expertise and corporate memory and that, since the whole point here again is restructuring, I would like to know what those agencies were and how that happened. Did they not target their offers? How could that happen in what Mr. Koskinen tells us is an effort to restructure and make more efficient?

Ms. KINGSBURY. Well, there are probably limitations to how much I can tell you at this point in time. We asked the question on the survey we sent to agencies: Has this affected your mission? Three of the agencies in responding to that question said yes and offered some additional observations, one of which I think we quote in the testimony, about some key knowledge as being lost.

At this point, because of the short time we had to do this work, we don't know anything more than that. As we continue to look at this buyout, we will look much more in depth at the impact on agency missions. It will surprise me, if only because of the downsizing targets, if there aren't significant effects somewhere along the line.

Ms. NORTON. So the numbers—some may have to bite into the muscle and flesh of the agency?

Ms. KINGSBURY. It comes back to what the rationale for the numbers were. And the targets for the numbers were set in a governmentwide sort of way, and there has been some reallocation through the budget process. There has been the further complications of Congress, acting in some cases on individual agency bills, of exempting some functions from these reductions, which, as long as that 272,000 number is out there, puts more burden on agencies that perhaps hadn't planned to have additional reductions. And I think we are going to have to look at that on a case-by-case basis in each agency.

All I can tell you today is that the three agencies—and I will get you that information. I don't have it here. The three agencies did tell us that. And those agencies are certainly where one of the places that we will go in the future in order to see just what those impacts were and how bad the disruptions were, vis-a-vis the goal of efficiency.

Ms. NORTON. I am very pleased that we have been joined by the ranking member of this subcommittee, Mrs. Morella.

Mrs. MORELLA. Thank you, Madam Chair, and thanks again for this hearing coupled with the one that we had yesterday on such vital issues. I know that you discussed the concept of the buyout and how it is working and then going into contracting out. I want to pose a question on contracting out to the three distinguished members of this panel.

I have been told that one of our newly formed agencies, corporations, has recently used more than 200 contractors to evaluate the agency's regulations, to help with the new program, to set up the computer system and to provide the other functions. And I find it very difficult to comprehend the logic of the cost—justifying the cost of bringing in these contractors from all around the country, housing them and paying them.

I would suggest that should any agency need extra help at any time that they first try to get Federal employees from other agencies to bridge the gap. There must be some times when these agencies have the time and could loan or contract their employees to the agency needing help.

I believe that Federal employees would better know how to evaluate Federal programs. I wonder if all of you, or any of you, would like to comment on that suggestion.

Mr. KOSKINEN. Well, I think, again, the point is well taken. We ought to utilize the expertise and information we have ourselves, whether it is by detail or short-term delegations.

As we discussed earlier, we have done that, for instance, in the issue of streamlining plans with the President's Management Council, trying to, in fact, develop a backlog of information of best practices with employees and sections of agencies and departments that can serve as examples and using those as, in effect, tutors or consultants or resources that other agencies can draw upon. We have had a lot of that going on. And, where it is appropriate, I think we should do that.

On the other hand, there are going to be obviously unique times where you want specialized expertise for a short period of time where either it is not available at other agencies or, if it is, it is not available because of time constraints.

So I don't think we could establish again, as we were discussing earlier, a uniform flat rule that you have to do it across the Government one way or the other.

I think, on the other hand, the agencies need to try to be as efficient as they can, but, ultimately, in these days of budgetary constraints, they obviously have their own constraints on where they can spend the resources. We no longer have a situation where agencies have the ability to be inefficient, because the expenditure of $1 for one purpose now means you have $1 less for another purpose.

Mrs. MORELLA. You know, one agency contracting 200 people at one time sounds terribly inefficient, and maybe some accountability could be built into the kind of flexibility they need. Wouldn't you agree?

Mr. KOSKINEN. But you have to know whether that is 200 people for what period of time. Is that once every 5 years, every 10 years? Is it every year? If an agency were doing it regularly for that kind of consulting—I don't think you can draw an example from the pure example of 200, and I don't know what they were doing. You may be exactly right that that was a misuse of resources, but, I think, the fact that somebody had 200 consultants for a period of time doing a set of resource analysis and efficiency analysis, the agency is not on its face necessarily an unfortunate use of resources.

Mrs. MORELLA. I just have more confidence in the Federal employees we have. I think we could pull in some of that expertise. Any of the rest of you?

Mr. KLEIN. I think in the instance you mentioned I share your concern. That if it is the automation, bringing in computer specialists to set up their systems, which, I think, is what you described—

I know we have been through an awful lot of work in that area at OPM.

We are finding that throughout Government, with the Administration's focus on the information highway and modernizing our operations and computerizing what were paper-driven bureaucracies in the past, that there is a real shortage of people who can do that sort of thing in our agencies.

So it may be difficult to find people to move into another agency, when their own agency is facing extremely tight targets in that area. It may be that was the only option they had. I don't know the particular situation.

But that is an area of effort going on right now that is extremely busy, with very few qualified people available to get the work done.

Mrs. MORELLA. Ms. Kingsbury, you want to comment?

Ms. KINGSBURY. I don't have anything to add to that. I don't know anything about the particular situation that you cite.

I will say, you weren't here earlier when I remarked that we did specifically ask agencies about the use of contractors in lieu of the folks that were getting buyouts. And we cannot, despite persistent reports in the press and elsewhere that that is going on—the agencies say it is not, and the unions tell us that they have no specific cases where it has happened.

We will continue to monitor that situation and look more directly at what contracts are being let for these kinds of activities in Government as we continue our oversight of the buyout program. And we will see whether or not that develops. We are aware that it is fairly early in the process for that sort of thing to be evident yet, and we share everybody's concern that that is not an appropriate outcome of this process.

Mrs. MORELLA. Yes, because when we talk about not having the expertise—I remember when we started with affirmative action programs, and they said we just can't find qualified minorities or women until they searched, until they looked into it.

I thank you. Just one final question, and that has to do with the backfilling when you have had buyouts. Do you have a record of whether you have then had to replace those people? Are we keeping some kind of a record so we can see whether or not in the long run we are being efficient?

Mr. KLEIN. Yes, ma'am. We have a record of that. The agencies must come to OPM for any kind of a waiver on the repayment by an employee who has taken a buyout.

We have only approved one instance in the past year, and that was for the major forest fires that were going on in the Northwest. The Forest Service found that some of the employees they had who had firework as a collateral duty had retired. These employees were not firefighters. They were in other kinds of work. The Forest Service asked us to bring them back for a short period of time to get the fires under control. That is the only instance we approved.

Mrs. MORELLA. That is the only instance? Well, good, I am glad you are keeping track of that.

Are you going to reach the 272,000 figure? Anybody want to answer—are you going to reach the 272,000 figure?

Mr. KOSKINEN. Yes, I think we will. We will meet the goal. We have a statutory mandate to meet that goal, so we don't have an alternative.

Mrs. MORELLA. All right, fine. Thank you very much.

Thank you, Madam Chair.

Ms. NORTON. Thank you very much, Mrs. Morella.

This is a conference report. I don't have to vote on a conference report.

The National Performance Review assumes and links reduction in certain personnel to efficiency. And the assumption is that when, in fact, these employees are no longer on the Government payroll that that is an important ingredient of the restructuring and efficiency we are endeavoring to achieve.

Now, in meeting that goal, I am going to read to you two kinds of limitations and ask each of you which do you think better meets that goal.

One says, "the President shall take appropriate action to ensure that there is no increase in the procurement of service contracts by reason of the enactment of this act, except in cases in which a cost comparison demonstrates such contracts would be to the financial advantage of the Federal Government." You are an agency head. That is what you read.

Now, you are an agency head, and you read, instead of that language, "the duties and responsibilities of an individual who separates from Government service in order to receive a voluntary separation incentive payment under section 3 may not be performed in whole or in part by any person under contract with the United States."

Which of those directives is in greater conformance with linking downsizing and efficiency? Any of you.

Mr. KOSKINEN. Lacking any volunteers, I will be happy to go first. It is clear that the goal, as you just noted, of the restructuring and the NPR is, in fact, to shrink not just the size of the Government but substantially change the nature of the work and supervisory functions. To the extent that supervisory functions are diminished and deleted, as a general matter you would not contract those out. We generally don't contract out supervisory functions. Those are inherently governmental functions. So that——

Ms. NORTON. Let me stop you 1 second. You are, of course, aware that some who have supervisory grades are given grade inflation. Given limitations that the Government has had on promoting people and on raises, that we ourselves have put on people, that there are people who have these grades who are not indeed—you are, in fact, getting rid of people who are not supervisors, who have supervisory grades?

Mr. KOSKINEN. Yes, that is yet another problem, one on another day we need to discuss.

But, for today, the problem we have is that to the extent you would go to the second directive, your question is whether that is clear. It is clear. But, in fact, to make that effective, you would have to say buyouts could only be used for people who, in fact, are not performing work that is going to continue to be performed in the future by the Government. Because that is the effect of what you are doing.

As we discussed earlier, for a lot of different reasons and a lot of different agencies, people have offered buyouts across-the-board for matters of equity, for matters of morale, for matters of efficiency. Once you do that, it is inconsistent with saying and, therefore, by definition that job can never be performed again.

Because the buyouts also have to be one-to-one reductions in FTE's. So that if you have told an agency you have got to reduce by an FTE and, in fact, this has to be a job that goes away totally, you have changed substantially the nature of the operation of the buyout program.

Ms. NORTON. Now, we get back to Ms. Kingsbury's point then, because if you have got—because if, in fact, these numbers that are related to efficiency, then, in fact, the whole point is to say that, no, this work doesn't need to be done by the Government again, and you shouldn't ever have to go certainly outside of the Government to get it done again. Or do you believe——

Mr. KOSKINEN. You are saying that we should actually—any—you are tying this to the buyouts, not to, in fact, restructurings of the agencies. And, in effect, as I say——

Ms. NORTON. I thought the buyouts and restructuring are the same thing. Isn't that what you testified?

Mr. KOSKINEN. We just talked about the fact that the buyouts are a tool to allow you to restructure. But, as you noted, for a lot of different reasons the buyouts, as part of the restructuring, have been offered to people across-the-board, not necessarily just to people in positions that are going to disappear.

Ms. NORTON. But buyouts have been offered to people across-the-board because there is a quota that you must achieve, and if you don't achieve that quota you will have to lay off people, Mr. Koskinen. Let's be clear.

Mr. KOSKINEN. You have to understand, though, what happens is, if I offer a buyout across-the-board and someone leaves in a job that I think needs to be performed, what a lot of agencies are doing—and that is why the buyout has been very effective and has kept us from having layoffs thus far in this front end—is that when an employee in one position moves back to another position and you have got another position you are trying to, in effect, give you a surplus.

You then, in fact, move that surplus position to replace what the employee did or you can deal with it that way. So, in fact, you build flexibility into the system with the buyouts.

To the extent you want to say buyouts can only be used for positions that will not exist, then you could, in fact, say by definition you cannot contract out that position. But that is not what we have said with the buyouts, and, in fact, I think it is appropriate that the buyouts for a lot of good reasons are offered across-the-board to people who are not necessarily operating in positions that are going to disappear under the restructuring.

Ms. NORTON. But if they are not going to disappear, should they go to contract employees? If they are not going to disappear, why shouldn't they be done by Government employees?

Mr. KOSKINEN. The issue with contracting out is a very important one, and that is why there are restrictions on the contracting out which is limited to those situations where it is financially more advantageous to the Government.

Many of those cases in contracting, for instance, have turned out to be situations—a little along the line of Congresswoman Morella's question—where the efficiency comes because you have, in fact, a non-full-time function or in an area where you are, in effect, going to say what I want to do and that is part of the cost-effectiveness is I need someone 3 months of the year, not 12 months of the year, in this area.

If we said, well, if anyone ever once had that job as a Federal employee and had a buyout, you could not contract out at all, you, in effect, would force people to say then I have to keep someone 12 months a year or for a longer period of time than the special circumstances I have.

I think the concern about using contracting-out authority irrationally or inconsistently is an appropriate one, but I don't think that saying, that tying it to the use of buyouts is the way to deal with it.

Ms. NORTON. The reason this comes up, Mr. Koskinen, is the stark difference between procurement of goods and the procurement of services. The procurement of services has been an open pit.

When this administration came into power, one of the first things it did was to note that contracting out services was totally out of control; undocumented. We have got $105 billion in contracts out there. You don't even know how many employees are involved.

This $105 billion has grown virtually unregulated. When the administration came in with deficit reduction, almost no stone was left unturned. But this $105 billion wasn't touched, even though the administration proposed that there be no locality pay and no raises, and the Congress had to get into the act in order to get raises for people that were working every day.

You come from the private sector where you know that when people do give-backs or deny people their raises, they do it for 1 year or 2. But nobody in the private sector does that year in and year out.

What the Federal Government has done is to allow the contract sector to grow. Those people get their raises every year. They are built into our $105 billion.

But we looked at the record, and, if you go back 20 years, you will find that, despite statutory authority to give raises that are modest, because the Congress thinks through what those raises ought to be, each and every year an administration comes in with essentially some form of give-back. And each and every year we—we are trying to figure out what the raise should be.

That is why the failure of the administration to do one thing with all this deficit reduction talk about this $105 billion while focusing in on civil servants has not sat well with this committee. And why, therefore, an open-ended notion—well, if you think you can do it better, that is fine. And, no—so far as we can tell, no guidance from OMB or from OPM to make sure that this sector doesn't simply continue to grow and indeed doesn't replace.

The fine analysis you have just given me, I would be hard put to find out there in the agencies. I mean, if you really think that people in the agencies are sitting out there right now thinking about whether to use contract employees in terms of efficiency, you need to wander among them. They want to use contract employees the way they have been using contract employees all along. And without some limitation, at least administratively, what you have done is to invite this committee, or indeed this member, to come forward with her own bill.

Mr. KOSKINEN. I understand that. I think the GAO study and experience is ours. Thus far, we have not heard of any examples where the buyout authority has been abused, the use of it, and tied into contracting authority. If we find those abuses, we need to deal with them. No one is in favor of that. But, thus far, we do not see that the buyout authority is aggravating that problem.

Ms. NORTON. Don't you think you have to deal with this prophylactically? I mean the temptation is awfully great, Mr. Koskinen.

Mr. KOSKINEN. I am sorry, my only view about dealing with things prophylactically is that part of the problem we have in our personnel structures and our operations is that we have Governmentwide sets of continual rules and greater details that, in fact, have made it more difficult, not easier, to have agencies function in an appropriate——

Ms. NORTON. Are you concerned about the $105 billion that you all have left out there; not done a thing in 2 years about? Are you concerned about that? You have not done anything about that. And you say we don't need any rules to deal with possible abuse here.

Mr. KOSKINEN. We are concerned about all expenditures and that they all be done appropriately and efficient——

Ms. NORTON. What are you doing about the $105 billion?

Mr. KOSKINEN. We review that as part of all the budgets that come in.

The question you were asking me was about whether or not we should attack this problem by that limitation on the buyouts, and my answer is, we do not have any examples thus far of major abuses in the buyout authority tied into this issue.

Ms. NORTON. Well, both the AFGE and the NTEU have asserted several agencies have documented about doing work in-house rather than contracting the work out. The work could be done, indeed, more cheaply.

The GAO did a study of nine agencies where it found very significant savings that could have been made if the agency had done the work in-house. And, in fact, the agency was paying—the GAO found out, I think my recollection is, that in three agencies 50 percent more was being paid by doing the work outside.

I mean, the notion that, well, we will deal with this when we see a problem, when the $105 billion has not been touched and you are doing deficit reduction that involves people's jobs and salaries on the inside, is not a very satisfactory approach as far as we are concerned.

One of the reasons we are approaching it this way is because you all have not approached it the other way. And we see the possibility of adding to that $105 billion, because we think this is an open invitation to do so. There are no regulations. There are no rules. It is just that if you think I can do what remains to be done and I happen to have some money that I can move around to do it, then I can contract out.

What we have—what we have desired—and I have other bills in as well—what we prefer is for the agency to get hold—for the OMB to get hold of this problem in a systematic way. But if your answer to me is, we don't do anything prophylactically, we want to have less rules and regulations, then of course you are inviting this committee to do legislatively what you have just said you do not intend to do administratively.

Mr. KOSKINEN. I would like to disagree that we did not—I thought I specifically responded that we are concerned about the appropriate expenditure of funds across-the-board.

Ms. NORTON. But you said there are no problems yet, so why act.

Mr. KOSKINEN. No, I said there is no problem in the use of buyout authority that is tied, in terms of abuses, to this issue and that, in fact, the proposal you have made we think will unnecessarily restrict the use of the buyouts which expire in March, at which point this issue may be moot.

But between now and then we think it would be, on the basis of the way the program has worked thus far, which has worked well, I think all of us are agreed to that extent, that to undercut the function of the buyout authority at this time seems inappropriate.

Ms. NORTON. The fact is that something inspired the OMB to move beyond the broad limitation in the law, I am pleased to note, and hopefully we can inspire you to monitor this matter.

In April—April 18, Mr. Panetta in his guidance to heads—to executive agencies, mentioned limitation on procurement of service contracts. And as I read that language, it is virtually the same language as the statute.

But by August 19, 1994, Alice Rivlin, as Acting Director, saw fit to put out a special memorandum to heads of departments and agencies in which she noted not only the limitation in the law, but went further: "We do not expect that the work of these agencies will simply be converted to contract performance and ask that you exercise vigilance in complying with the provisions of section 5(g). In those instances where conversions to contract may be appropriate, agencies should rely on the cost comparison requirements of OMB Circular A–76 where applicable." What you are doing is closing in on it.

Mr. Koskinen, all I can tell you is that, while hard to document, there is—there are concerns in the agencies that have certainly reached us that there is contracting out going on that would replace people who are being bought out. And what I would hate to see, because it is the way government always works—the way government always works is you wait until a problem becomes serious, and then that is why you get rules. You get rules and regulations. You get overregulated because government acts in response to abuse and scandal.

So when the abuse comes, in order to show the public that we are on top of it—we might not have been on top of it yesterday but we are sure on top of it now; we are doing all we can; we are beating them to death now. At that point, we get overregulation.

What I am trying do is to tell you that contracting out is a favorite sport in the agencies and that nothing in the world is going to stop them from doing it, doing what they have been doing long before this administration came into power, except some stern understanding that it will not be tolerated. Ms. Rivlin's August 19, very recent directive, at least moves in that direction.

I am very concerned to hear you say, though, we haven't got any problems yet so we are not sure we need to do anything. We are talking here in the face of—we are talking here in the face of an explosion in contracting out, unmonitored, virtually unmonitored over the past 10 years, and in the face of what is probably the fastest growing part of the Federal budget today, and that is contracting-out services.

Before all of that gets out of hand, before somebody from a union comes in and proves that somebody has hired 50 employees over the past 6 months to replace their employees that were bought out, before all that happens, either you should act or the Congress should act. That is why this bill has been put in, because we didn't see you all acting. So the bill was put in to make sure we wouldn't be acting after the fact and in criticism from the public.

Mr. KOSKINEN. Well, I think your analysis of the process is exactly right, and that is that to the extent that abuses are allowed to continue and no action is taken you ultimately get driven to Governmentwide responses. And I think that is correct. That is part of the problem. And that is, that if we do not deal with abuses of what otherwise are appropriate processes when they occur, the net result will be, inappropriately, will be systemic actions.

One of the issues we have to do and one of the things I hope we will be able to do across the Government is manage our processes better so that wherever problems or abuses occur they are dealt with as individual instances and not allowed to continue.

And my only point here is if there are abuses in the use of the buyout authority in terms of contracting out, we ought to deal with those. Those ought to be visible. And we ought to—in fact, that is the reason the OMB guidance has been given.

We ought to make sure the agencies operate within the rules and restrictions. Those agencies that cannot, have to be dealt with accordingly. And we ought not to let them continue to do that and end up with a result for a rule that applies to everyone.

So my point is not that, No. 1, we shouldn't be alert to abuses or, No. 2, we shouldn't deal with them. My point is only at this juncture with regard to this particular facet of the problem we have not had any indications, and I don't think OPM or GAO has, of any significant abuses. If there are abuses, if people brought those to your attention or others, we should deal with those immediately.

All I was saying is, at this stage—and it does not deal with the longer term, broader issues you are raising about contracting out—at this stage, with this specific issue, it seems to me appropriate that we continue to deal with the situation as we have. We have issued guidance, as you say. We have made it very clear to the agencies that they are to comply. And, thus far, we don't think we have illustrations of abuses. If there are, we should deal with those. We should find out——

Ms. NORTON. How would you deal with those, Mr. Koskinen? How would you deal with those?

Mr. KOSKINEN. The A–76 requirements are very clear. That an agency that abuses the process, in effect, has to unwind all of those actions as it goes forward and, in fact, then will be subject obviously to greater review and constraints. Thus far, not generally about contracting out but for the use of the buyouts, we have not found that that is necessary.

As I say, I think the size of Government contracting out and the $105 billion problem is a—is a large question that needs to be continued to be monitored, as I said earlier.

We are concerned, at OMB in times of financial constraints, about all expenditures and the need to make sure they are dealt with appropriately and it may be appropriate to look at that otherwise. But the narrow focus here, an important focus but the narrow one, is on the impact of the buyouts.

Ms. NORTON. Yes, the problem is those problems cannot be disconnected. If we are dissatisfied, as certainly the Congress is, with $105 billion, the notion that we might be adding to it certainly links it to what is seen as an excessive amount in the first place. That is a whole lot of money that hasn't been cut 1 cent, even though we are in fact freely, freely cutting the raises of Government employees each and every year.

The notion that there would not be some shared cutting here is itself outrageous. I still can't understand it.

Ms. Kingsbury, are you familiar with the contracts that GAO looked—the nine contracts, I think there were——

Ms. KINGSBURY. I am familiar with that report. I haven't looked at it recently. But I am certainly——

Ms. NORTON. How do you explain the fact that agencies—how did GAO explain the fact that agencies were contracting out for significantly more money than the work could be done in-house? I mean how could that possibly happen?

Ms. KINGSBURY. Well, I think the problem is actually much more fundamental than we have talked about yet here. The problem of this contracting out, it seems to me, arises from the disconnect between decisions about how many Federal employees there should be and decisions about what Federal agencies are funded to do.

Ms. NORTON. Go back to the efficiency question.

Ms. KINGSBURY. It is partly an efficiency question, but it is also a programmatic question. There is a correlation between the decisions about the number of employees but an imperfect one.

And, as I have said earlier today, the decision to cut the Federal Government work force yet again one more time by a certain number that is not clearly related to the cutting of Government programs or to already identified efficiencies creates a situation where you have x number of employees and work to be done that is x plus y. And agencies all have authority to contract out for activities. If they have to do x plus y, they contract out.

If the number of employees is artificially constrained, as it has been for many, many years—this is not something new to this administration—has been for many, many years, decisions are made to get the work done even in circumstances when if you did a cost analysis, as some agencies that we reported on had done, it would show that it would be less costly to do it by employees. That particular report was a request to look at any studies that we could identify where agencies had, in fact, calculated that doing the work in house might be less costly. We did that, and we reported on it.

Our view coming out of that work is that these decisions ought to be made rationally. The decision to contract out ought to be when it is more efficient and effective to contract out. The decision to do the work by Federal employees ought to be when it is more efficient and effective to do it by Federal employees.

But as long as this Government is operating with a set of artificial employment ceilings, those kinds of seemingly irrational decisions are made in the interests of carrying out the activities that agencies have been charged with doing. That is the only explanation I can come up with.

Ms. NORTON. Yes, that makes sense. I don't think people are simply abusing. They have work to do, and they do it, and they go to get whoever can do it.

And all of that flies—what I am trying to say to you, Mr. Koskinen—I keep trying to bring you back to your first principle, which is efficiency. That there are $105 billion out there that you all don't know anything about does not bespeak efficiency. Indeed, an agency does not even have to do a cost analysis before contracting out service work. I have a bill in to, at least, require that.

You have to do it for commercial work but not for service work. I can't understand why it wouldn't have been required for service work—for services as well.

It is impossible for the subcommittee to have confidence in section 5(g) when it does not have confidence in the way in which contracting out has been done in the first place, down to and including the most elementary notion, a cost analysis.

Now, one may come back and say, look, it will cost more or less to do it, but for other reasons we want to contract the work out. We can understand that. But the notion that that factor wouldn't have to be in the equation is absolutely scandalous in a government which is insisting upon deficit reduction, downsizing, and saving money.

So the committee is—we have a bill. We shared this with Government Operations. The subcommittee is very concerned about the failure to touch or to say anything about $105 million in service contracts.

Leon Panetta said it when he first got to Government—it was he that started this. He said, I don't know anything about this. The Government doesn't know anything about this. This is out of control, and we've got to get it under control.

That is the last we have heard of it. So that when it is implicated, it is implicated. That is why it is in the original buyout bill.

And the failure to deal—if you want to deal with it as part of the overall problem, please be our guest and do it soon. But it is out there, a red flag, and if something isn't done about it soon I predict that in the 104th Congress, having raked over every other thing we can find, every mission, every employee, every retiree, we will surely ourselves get to this $105 billion that is out there.

Is there any monitoring process in place by which you would even know if the abuse—if any abuse was occurring with respect to contracting out of services?

Mr. KOSKINEN. As I note, the budgets are reviewed in great detail. We are starting that now. The agencies have to justify every expenditure. They are all under substantial financial constraints.

And I think it is unfortunate and it would be inappropriate to leave the impression here that this particular element of the budget gets no attention at all. It obviously gets attention in the same way that the others do. The agencies have to come in——

Ms. NORTON. Mr. Koskinen, could I ask you a question? Why wasn't it included in deficit reduction? Why was it left standing without a single cent touched on it?

Mr. KOSKINEN. In terms of contracting out generally?

Ms. NORTON. Yes.

Mr. KOSKINEN. Because contracting out is a secondary function. If—it is a little like saying if you are not—if the contracting out, the work that is being done, is appropriate, to simply say we are going to do less of it is not exactly the way we are going about it.

Ms. NORTON. No, Mr. Koskinen, what we did for Federal employees—the administration put in all kinds of things. They wanted to cut annuities. It didn't say, get rid of the Federal employees altogether. It said, cut annuities. It said, don't cut locality pay; do less of a raise.

Now, it didn't have to say, don't do contracting out work. One of the things we suggested is it say, "hey, cut your contracts by 1 percent—1 little percent. Save the Government a lot of money."

I bet you that in a competitive contracting out-process if you said to contractors you can keep this contract if you do it for 1 percent less, as efficiently as you have been doing it, they would have cut that 1 percent quicker than you got the words out of your mouth.

So I don't—so I do not—I don't understand why—how the Government could have gone around cutting everything in sight, including missions that affected the most vulnerable people in the society, and left these folks out here who are doing contracting without any suggestions as to cuts that they might make that would contribute to deficit reduction.

Mr. KOSKINEN. The agencies are under substantial constraints. The way deficit reduction has worked as a general matter in programmatic areas has been that the agencies are, in fact, substantially constrained by the way they function. They have to justify the way they spend those resources, how they get the programmatic dollars out. That is the way it has proceeded thus far.

As I say, when those budgets come in, the agency has to justify not only the amounts that they are spending but how they are spending it. It is reviewed on a regular basis. It has historically not been the way that it has been done to say that you have to—you can only achieve your mission in one way or another.

The focus on the 272,000 is not a deficit reduction number by itself, and, in fact, we have spent a lot of time with the agencies and with OMB saying that it is not a numbers exercise.

The focus of the National Performance Review was that we should ultimately end up, as everybody from General Motors and IBM on down has done, with a different paradigm of a management structure. The old version, not just in the Federal Government, but the old version 50 and 60 years ago, of what a pyramidal and hierarchical structure should look like and how it should operate worked fine in the 1940's, 1950's, and 1960's, but just as private sector companies have discovered, it doesn't work fine now. It is, in fact, overly rigid and unresponsive to the production of services and relating with customers.

Similarly, the position is that the Federal Government needs to adjust. It is not, in fact, a position solely designed or primarily designed to say we need fewer employees.

As I have said, my concern is the same, that if we simply have fewer employees doing the same kind of work in the same way, we obviously will not only not be more efficient, we will be less efficient.

And the challenge we have to deal with, all of us, the Congress and the administration, with the agencies, is over the course of this time to ensure that the streamlining plans indeed do cause us to look again at the mission of a program, of an agency, to look at the way we are structured to do that work and to, in fact, design that work in the most efficient way possible.

That has gone on—it is not just the Government that is doing this. This has been a move that is going on. You read about it in the newspapers every day, and you have been reading about it for the last 6 to 8 years. That is what we are driving at with, in fact, the National Performance Review.

Ms. NORTON. Mr. Koskinen, I realize you weren't here when this exercise started. It is very difficult, I know, to come in when the numbers have already been set and to be asked to give the rationale for everything, including the $105 billion as well. I don't mean to pressure you in that sense.

I do mean to say, though, that you could end up with more employees and with no rationale if contracting out is seen as something that will simply be reflected in the budgets of the agencies, will have to be justified then, and so be it. And the reason I say so is the growth of the $105 billion has been troubling to OMB. That is how we got alerted to it. And I think that OMB was right to point it up.

I wanted to encourage OMB—and certainly it is not all in your section of the agency, but I want to encourage OMB to pursue their own radar on this issue, point it out early in the administration, so that we are not left here with as little information as we now have about it.

Finally, let me ask Ms. Kingsbury, do you believe that there could be controls that could be feasible put on contracting out? Or is this something that simply has to be left to agency discretion?

Ms. KINGSBURY. You mean controls of the sort that your bill proposes?

Ms. NORTON. Or at this point I suppose the example that comes to mind really comes out of the pain of last year's deficit reduction, when, on every appropriation that went on the floor, you could expect that either we had cut from what the administration had wanted or would cut in committee or on the floor. And one is left with how responsibly to deal with $105 billion that is not—that is a huge amount of money, left up there, fat in the budget uncut. It stands out largely because it is uncut.

I mean, it occurred to Members of Congress to say everybody cut 1 percent, because we believed that that kind of efficiency any contractor could bring to bear if he wanted to be competitive and keep a contract.

There was no way to quite do that in the process of this committee, but I would be interested in your views on whether it is feasible, without hammering down agencies into other inefficiencies and regulation, to get control of a figure like that.

Ms. KINGSBURY. Well, I can report that in the aftermath of the report that you referred to, where we looked at agency studies of contracting out, it is our understanding now that OMB is, as a technical matter in their regulations, now requiring that cost analysis be done for service contracts as well as for commercial contracts. They have done this, and I can provide some additional information to you about this.

Our current view is that they have not adequately told the agencies this, that they have done it by taking out an exception to a regulation and that agencies are not clearly aware that they are expected to do that. If that kind of analysis is systematically done and recorded and documented for every contract, I think then you have a vehicle for agency managers to monitor this activity, and that is the appropriate vehicle.

The question of how much is enough is a very big question because, again, it goes back to the heart of the matter. You fund agencies to do a certain amount of activities. You tell them they can only have x employees. If they have got to do y, they have got to have some way to do it.

It is a difficult problem. We are encouraged and will, I think, be testifying before this committee in a couple of weeks on this matter. We are encouraged that OMB is beginning to recognize that service contracts need to be looked at with the same kind of scrutiny one would look at any other kind of commercial activity, maybe more.

Ms. NORTON. Thank you very much. I want to thank all of you. We have kept you a long time.

In doing so, I do want to indicate how pleased we are, as a general matter, with the way in which the buyout authority is being used. We see that the morale in the Government is up.

We note that there are bumpy places, but I agree with Mr. Koskinen on that. These agencies have never done this before and certainly not in conjunction with restructuring and efficiency goals. We are encouraged to believe that the present buyout authority will, in fact, hold up and for the most part avoid layoffs. We think it is an extremely important breakthrough for the Federal Government, now in line with the best of the private sector.

We continue to believe that the National Performance Review is a ground-breaking, really historic document, one of the few Government documents that when you pick it up says—rather, speaks to you almost immediately.

We believe that matters such as contracting out are quite amenable to fixing. Our point is only to encourage it to be fixed.

We believe Mr. Koskinen has a particularly difficult job, coming when he does not at the beginning of this process when the Government was trying to figure out how to do it but rather more in the middle, to shift Government agencies that are fixed on meeting their quota because they know that the budget will not go up and if they don't meet their quota—and that is what it is—that they will have to lay off people. They are fixed on that. And the Herculean job of fixing them as well on restructuring and on efficiency is very difficult but I agree very, very necessary.

We can't let this extraordinary opportunity to show that the Government can restructure itself into an efficient entity go by. And so we must join the downsizing with the efficiency goals, and I commend you for wanting to try what has never been tried in the Federal Government, and I am certain that if we continue to work together we will be successful.

Thank you very much for this very important testimony.

Panel two: Mr. Jon Seymour, Assistant Secretary for Administration, Department of Transportation; Mr. Rod McCowan, Assistant Secretary for Human Resources and Administration, Department of Education; Mr. Timothy Dirks, Deputy Assistant Secretary for Human Resources, Department of Energy; Ms. Teresa Trujeque, I think, Deputy Assistant Secretary for Human Resources, Department of Interior.

I apologize to panel two that we have kept you so long. This is our first hearing on buyouts and involved a hearing on a bill as well. Excuse me. You may proceed in any order that you are comfortable with.

STATEMENTS OF HON. JON H. SEYMOUR, ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF TRANSPORTATION; HON. ROD McCOWAN, ASSISTANT SECRETARY FOR HUMAN RESOURCE AND ADMINISTRATION, DEPARTMENT OF EDUCATION; TIMOTHY M. DIRKS, DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES, DEPARTMENT OF ENERGY; AND THERESA TRUJEQUE, DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES, DEPARTMENT OF THE INTERIOR

Mr. SEYMOUR. I am not sure I want this seat, Madam Chair, but I have got it.

I am Jon Seymour from the Department of Transportation. I am the Assistant Secretary for Administration. And we thank you for the opportunity to come and testify today on the Governmentwide buyout program and H.R. 4488.

The first phase of DOT's own experience on the use of the Voluntary Separation Incentive Program or buyouts has been working very effectively. DOT has reduced the number of employees through buyouts by over 2,700.

In our organization, we gave significant flexibility to administer buyouts to each of our operating administrations and to component offices in our Office of the Secretary. Each organization prepared plans which were reviewed by the Deputy Secretary and tailored to its particular budget projections and work-force characteristics.

The operating administrations followed these plans to downsize but also to protect critical functions, especially those involving safety and direct service to the public; to continue to ensure that workforce diversity objectives and accomplishments are met; to emphasize administrative, headquarters, and supervisory functions for reductions; and, generally, to begin restructuring into more efficient organizational configurations consistent with the National Performance Review recommendations.

We believe we have had such success in using buyouts during the last several months that we are currently planning another round for fiscal year 1995. We will again plan the use of this authority very carefully to be sure that key functions are staffed effectively while we become smaller and more efficient.

We view buyouts as a valuable tool that allows employees to separate voluntarily rather than through reductions in force, or RIF's, which, as you have already mentioned, are costly, time-consuming, damaging to morale, and generally ineffective as a tool for reorganizing and filling jobs—in short, we believe highly counterproductive.

We have found that the majority of employees who separated through buyouts did so to take advantage of retirement benefits they might not have used at this point without the buyout incentive. As a result, there were far more senior, relatively high-pay employees separating than if we had used RIF procedures. RIF almost always results in a disproportionate number of more junior employees separating involuntarily.

With regard to H.R. 4488, which would prohibit an agency from contracting out in whole or in part the duties and responsibilities of an individual who separates from the Government in order to receive a buyout, our concern is that it may be so comprehensive that it could deter cost savings and streamlining opportunities.

The contracting restriction now contained in Public Law 103–226 requires a decrease in cost before function can be considered for contracting out, thus providing the flexibility to review cost-saving opportunities in conjunction with appropriate bargaining unit representatives on a case-by-case basis. We believe this flexibility is beneficial and should be maintained.

And, Madam Chair, I might add, in view of this morning's discussion, we have not experienced any contracting out as a result of buyouts to date.

Our Deputy Secretary issued a memorandum to the heads of organizations in DOT last June citing the provisions of 5(g), emphasizing the requirement for cost comparisons, referencing A–106 and our own internal guidance as a means for doing those comparisons. I think it is consistent with the kind of guidance you mentioned that the Deputy Director of OMB had issued recently.

As we have done throughout the buyout program, we plan to continue working closely with our unions as we strive to streamline the agency and look for ways to improve the quality of our service to the American people.

Thank you for the opportunity to provide this testimony. I am prepared when our colleagues are done to answer any questions you might have.

Ms. NORTON. Thank you, Mr. Seymour.

[The prepared statement of Mr. Seymour follows:]

PREPARED STATEMENT OF JON H. SEYMOUR, ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Madam Chair and Members of the Subcommittee, thank you for providing the Department of Transportation this opportunity to testify on the operation of the Governmentwide buyout program under the Federal Workforce Restructuring Act of 1994, and on H.R. 4488.

The first phase of the Department of Transportation's use of the voluntary separation incentive program or buyouts is working very effectively. The Department has reduced the number of DOT employees by over 2,700. In DOT, we gave significant flexibility to administer buyouts to each of the operating administrations and offices in the Office of the Secretary. Each organization prepared plans which were reviewed by the Deputy Secretary and tailored to its particular budget projections and work-force characteristics. The operating administrations followed these plans to downsize, but also to: Protect critical functions, especially those involving safety and direct service to the public; continue to ensure that work-force diversity objectives and accomplishments are met; emphasize administrative, headquarters, and supervisory functions for reductions; and begin restructuring into more efficient organizational configurations consistent with the national performance review.

We had such success in using buyouts during the last several months that we are currently planning another round of buyouts for fiscal year 1995. We will again plan the use of this buyout authority very carefully to be sure that key functions are staffed effectively while we become smaller and more efficient.

We view buyouts as a valuable tool that allows employees to separate voluntarily rather than through reductions-in-force [RIF] which are costly, time consuming, damaging to morale, and ineffective as a tool for reorganizing and filling jobs—in short, highly counterproductive. We have found that the majority of employees who separated did so to take advantage of retirement benefits they might not have used at this point without the buyout incentive. As a result, there were far more senior, relatively high-paid employees separating than we would have expected using RIF procedures. RIF almost always results in a disproportionate number of more junior employees separating involuntarily.

H.R. 4488, which would prohibit an agency from contracting out, in whole or in part, the duties and responsibilities of an individual who separates from the Government in order to receive a buyout, is so comprehensive that it may deter cost-savings and streamlining opportunities. The contracting restriction now contained in Public Law 103–226 requires a decrease in cost before a function can be considered for contracting out, thus providing the flexibility to review cost-saving opportunities in conjunction with appropriate bargaining unit representatives on a case-by-case basis. We believe this flexibility is beneficial and should be maintained.

As we have done throughout the buyout program, we plan to continue working closely with our unions as we strive to streamline the agency and look for ways to improve our quality of service to the American people.

This concludes my prepared statement. I would be pleased to answer any questions that the subcommittee may have.

Mr. McCOWAN. I am Rod McCowan from the Department of Education.

Thank you, Madam Chair, for the opportunity to testify before you about our plans and experience with the Department of Education's Voluntary Separation Incentive Program, authorized under the Federal Workforce Restructuring Act. On behalf of the Department of Education, I would like to thank you and the subcommittee for your work in passing this important legislation.

The Department of Education Voluntary Separation Incentive Program, commonly referred to as the buyout program, represents an important element of the management initiatives we have undertaken to meet critical mission objectives.

The responsibilities of the Department of Education have grown tremendously. As you know, this Congress and this administration have worked together to enact an ambitious and comprehensive agenda for the Nation's education system. President Clinton has signed into law the Student Loan Reform Act, which establishes the new direct lending program, the Goals 2000 Educate America Act and the School to Work Opportunities Act.

Furthermore, the House and Senate are currently in conference on the Improving America's Schools Act, legislation reauthorizing the Elementary and Secondary Education Act.

These new initiatives, designed to expand educational opportunities for students in States and communities across the country and to help them reach high academic and occupational skill standards, constitute a serious bipartisan commitment to learning, and they challenge all of us at the Department of Education to operate in the most effective and efficient manner possible to carry out our new and continuing responsibilities. The buyout program has played an important role in helping us to meet that challenge.

Since the very beginning of this administration, Secretary Riley and Deputy Secretary Kunin have worked to reinvent the Department into a streamlined, results-oriented and customer-focused agency in which all employees are respected and valued. The Secretary and Deputy Secretary have worked hard to create such an environment at the Department.

Our reinvention strategy is designed to create a more effective organization that has fewer layers, is more responsive to our customers and empowers frontline workers. The buyout program has helped us in our effort to create a better organization.

I am very proud of the manner in which the Department has used the buyout authority. I believe we have been sensitive to our employees, to the people who are served by our programs and to the taxpayers.

In developing plans for the buyout, we entered into an early partnership with our union, AFGE Council 252. More than 6 months before we made the buyout offer, we surveyed 1,400 eligible employees. We listened carefully when hundreds of our employees contacted senior leadership of the Department to request participation in the buyout, and we decided to make the voluntary separation incentives available to all employees.

The buyouts were made available between April 29 and May 13, 1994. Three hundred ninty-two employees accepted the buyout offer.

We believe the buyout program has been a success. The process was fair to employees. It was also the source of significant budgetary savings. Net savings for 1994 and 1995 will be $5.7 million, following a cost of $1.7 million in 1994 and a savings of $7.4 million in 1995.

Savings result from a combination of forgone salaries and benefits and the difference between the salaries of retired employees and the lower-paid employees who are hired in another part of the Department. The General Accounting Office, which was asked by the House Appropriations Committee to review our buyout process, concluded that we had effectively complied with all the requirements of the Federal Workforce Restructuring Act.

Because of the positive experience with the program, the Department plans to offer a smaller and more selective buyout later this fall. Whereas last spring employees at all grade levels could participate, we anticipate limiting this next phase of buyouts to higher-grade supervisors and managers. Our aim is to reduce managerial layers, increase employee/supervisor ratios and open up opportunities for diversity among management positions.

Madam Chair, as the Department of Education moves on to its next phase of buyouts, I believe the voluntary separation incentives process is demonstrating its usefulness in many ways. It creates opportunities to hire employees with different skills and abilities; it enables the Department to achieve a more diverse work force; it provides a means for departure from service that is less traumatic for the employee and less stressful for the organization than reductions in force; and it helps the Department to streamline operations and meet the important responsibilities we have been given.

In short, the buyout program will continue to be beneficial to the Department. I welcome the subcommittee's attention to this subject, and I would be pleased to answer any questions you have. Thank you.

Ms. NORTON. Thank you, Mr. McCowan.

[The prepared statement of Mr. McCowan follows:]

PREPARED STATEMENT OF ROD MCCOWAN, ASSISTANT SECRETARY FOR HUMAN RESOURCE AND ADMINISTRATION, DEPARTMENT OF EDUCATION

Thank you, Madam Chair and Members of the Subcommittee, for the opportunity to testify before you about our plans and experience with the Department of Education's voluntary separation incentive program, authorized under the Federal Workforce Restructuring Act. On behalf of the Department of Education, I would like to thank you and the Subcommittee for your work in passing this important legislation.

The Department of Education's voluntary separation incentive program—commonly referred to as the "buyout" program—represents an important element of the management initiatives we have undertaken to meet critical mission objectives. The responsibilities of the Department of Education have grown tremendously. As you know, this Congress and this Administration have worked together to enact an ambitious and comprehensive agenda for the Nation's education system. President Clinton has signed into law the Student Loan Reform Act, which establishes the new direct lending program; the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act. Furthermore, the House and the Senate are currently in conference on the Improving America's Schools Act, legislation reauthorizing the Elementary and Secondary Education Act.

These new initiatives—designed to expand educational opportunities for students in states and communities across the country and to help them reach high academic and occupational skill standards—constitute a serious, bipartisan commitment to learning. And they challenge all of us at the Department of Education to operate in the most effective and efficient manner possible to carry out our new and continuing responsibilities. The buyout program has played an important role in helping us meet that challenge.

Since the very beginning of this Administration, Secretary Riley and Deputy Secretary Kunin have worked to reinvent the Department into a streamlined, results-oriented and customer-focused agency in which all employees are respected and valued. The Secretary and Deputy Secretary have worked hard to create such an environment at the Department.

Our reinvention strategy is designed to create a more effective organization that has fewer layers, is more responsive to our customers, and empowers front-line workers. The buyout program has helped us in our effort to create a better organization. I am very proud of the manner in which the Department has used the buyout authority. I believe we have been sensitive to our employees, to the people who are served by our programs, and to the taxpayers.

In developing plans for the buyout, we entered into an early partnership with our union, AFGE Council 252. More than six months before we made the buyout offer, we surveyed 1,400 eligible employees. We listened carefully when hundreds of our employees contacted senior leadership of the Department to request participation in the buyout and we decided to make the voluntary separation incentives available to all employees. The buyouts were made available between April 29 and May 13, 1994. Three hundred ninety-two employees accepted the buyout offer.

We believe the buyout program has been a success. The process was fair to our employees. It was also the source of significant budgetary savings. Net savings for 1994 and 1995 will be $5.7 million, following a cost of $1.7 million in 1994 and a savings of $7.4 million in 1995. Savings result from a combination of foregone salaries and benefits, and the difference between the salaries of retired employees and the lower paid employees who are hired in another part of the Department. The General Accounting Office, which was asked by the House Appropriations Committee to review our buyout process, concluded that we had effectively complied with all the requirements of the Federal Workforce Restructuring Act.

Because of the positive experience with the program, the Department plans to offer a smaller and more selective buyout later this fall. Whereas last spring employees at all grade levels could participate, we anticipate limiting this next phase of buyouts to higher graded supervisors and managers. Our aim is to reduce managerial layers, increase employee/supervisor ratios, and open up opportunities for diversity among management positions.

Madam Chair, as the Department of Education moves to its next phase of buyouts, I believe the voluntary separation incentives process is demonstrating its usefulness in many ways: It creates opportunities to hire employees with different skills and abilities; it enables the Department to achieve a more diverse workforce; it provides a means for departure from service that is less traumatic for the employee and less stressful for the organization than reductions-in-force; and it helps the Department to streamline operations and meet the important responsibilities we have been given.

In short, the buyout program will continue to be beneficial to the Department. I welcome the Subcommittee's attention to this subject and I would be pleased to answer any questions you have. Thank you.

Ms. NORTON. Now we go to Mr. Dirks.

Mr. DIRKS. Thank you, Madam Chair. It is my pleasure to appear today to discuss the Department of Energy's use of buyouts under the Federal Workforce Restructuring Act of 1994.

The Department of Energy has testified twice before this body during the shaping and passage of the buyout legislation. At those times we presented the Department's need for the legislation as a tool for work-force rightsizing and restructuring.

The Department is now in the process of implementing recommendations of the administration's National Performance Review. This includes initiatives such as work-force streamlining, rightsizing, deregulation, reducing internal directives, reducing the ratio of supervisors and managers to employees, and shifting resources from headquarters oversight and control functions to frontline jobs that serve the public.

These important changes are being aided by our targeted buyout program. Because of major changes in our missions and priorities, as well as our implementation of the National Performance Review, the Department's work force is experiencing skills imbalances. For example, in some organizations, we are identifying excess staff in occupations such as nuclear engineers, general engineers, security officers, supervisors and managers, as well as positions in fields such as accounting, budget, personnel, acquisition, and management analysis. At the same time, we find that we have a shortage of necessary skills in our expanding mission areas such as environmental management and cleanup, energy conservation, and technology transfer.

Buyout authority properly targeted toward downsizing organizations and functions and selected occupational areas is giving the Department the flexibility to improve the skill mix of our workforce consistent with our evolving missions and program priorities.

In addition, the buyout incentive is being used to produce employment levels consistent with assigned staffing allocations, reduce or eliminate the need for reductions in force, preserve and promote workforce diversity.

By the end of fiscal year 1994, the Department of Energy will have offered approximately 600 buyouts. The Bonneville Power Administration will have offered approximately 240 of these buyouts to support its goals as a Government reinvention laboratory. As an example of reinvention, buyouts have allowed the Bonneville Power Administration to implement a new organization structure that is more customer focused and with significantly fewer employees.

The remainder of the Department will offer approximately 360 buyouts with about two-thirds of the buyouts being offered to employees in grades 14 and above. In addition, over 70 percent of all buyouts have been offered in organizations that have been identified by the Department for staff reductions due to mission and program priority changes.

Concerning H.R. 4488, the Department notes that the current buyout legislation already requires the assurances that there be no increase in agencies' procurement of service contracts as a result of providing buyouts. An exception to this is a cost comparison which demonstrates that such contracts would be to the financial advantage of the Government.

The Department believes that this existing flexibility is appropriate and I might add, as did Mr. Seymour, that a recent survey that we conducted at the Department indicated to us that we have not let or established any contracts behind individuals who have taken buyouts. The Department of Energy continues to believe that the benefits from the authorities contained in the Workforce Restructuring Act of 1994 will aid us in our rightsizing and restructuring efforts.

I will be pleased to answer any questions you might have and thank you for the opportunity to appear before this committee.

Ms. NORTON. Thank you, Mr. Dirks.

[The prepared statement of Mr. Dirks follows:]

PREPARED STATEMENT OF TIMOTHY M. DIRKS, DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES, DEPARTMENT OF ENERGY

Madam Chair and Members of the Subcommittee, it is my pleasure to appear today to discuss the Department of Energy's use of buyouts under the "Federal Work Force Restructuring Act of 1994" (P.L. 103–226) and to provide views on H.R. 4488, a proposed amendment to that Act. In this regard, I also appreciate the opportunity to share information on the Department of Energy's work force rightsizing and restructuring activities and the importance of the "Federal Workforce Restructuring Act of 1994" to accomplishing these objectives in a timely and effective manner.

BACKGROUND

The Department of Energy has testified twice before this body during the shaping and passage of the "Federal Workforce Restructuring Act of 1994", on October 19, 1993 and again on February 1, 1994. We presented the Department of Energy's need for the legislation as a tool for accomplishing major changes in the Department's missions and program priorities, as a tool for implementing recommendations of the National Performance Review, and as a tool for use in correcting skill mix problems.

CHANGING MISSIONS AND PROGRAM PRIORITIES AT THE DEPARTMENT

Prior to the collapse of the Soviet Union, the Department's primary mission involved activities associated with defense-based cold war energy programs. We are currently involved in a major shift of priorities with a focus on environmental cleanup, improved energy conservation, development of alternative energy sources, technology transfer, and increased safety and health at Department of Energy sites. Buyouts are helping facilitate these shifts in mission.

IMPLEMENTATION OF NATIONAL PERFORMANCE REVIEW GOALS

We are in the process of implementing recommendations of the Administration's National Performance Review. This includes initiatives such as workforce streamlining, deregulation, reducing internal directives, reducing the ratio of supervisors and managers to employees, shifting resources from Headquarters oversight/control positions to front line jobs that serve the public. These important changes, which are being aided by our targeted buyout program, need to be continued in order to make the Department of Energy more cost-effective and responsive to our customers.

ADDRESSING SKILLS MIX IMBALANCES

Because of the major changes in missions and priorities as well as our implementation of the National Performance Review, the Department's work force is experiencing skills imbalances. For example, in some organizations we are identifying excess staff in occupations such as Nuclear Engineer, General Engineer, Security Officers, Supervisors and Managers as well as positions in the fields of Accounting, Budget, Personnel, Acquisition, and Management Analysis. At the same time, we have a shortage of necessary skills in our expanding mission areas such as Environmental Management and Cleanup, Energy Conservation, Technology Transfer, Health Physics, Isotope Production, Radiological Assessment, Cost Estimation and Project Scheduling. Thus, buyout authority, properly targeted towards downsizing organizations and selected occupational areas, is critical to giving the Department the flexibility to address the need to "staff-up" with new and optimum skills to match our evolving missions and program priorities.

OTHER KEY WORK FORCE RIGHTSIZING AND RESTRUCTURING OBJECTIVES

In addition to the above-stated goals of the buyout program, the Departmentwide plan specifies that this incentive will be used to reduce employment levels consistent with assigned staffing allocations, reduce or eliminate the need for involuntary separation actions (i.e., reduction-in-force), and promote work force diversity.

GOALS OF BUYOUT AUTHORITY USAGE IN FISCAL YEARS 1994 AND 1995

Implementation of the Act in the Department of Energy included establishing priorities for use of voluntary separation incentive pay (buyouts) for FY 1994. Priority for FY 1994 buyout use has been given to specific program areas that need to reduce staffing levels, as well as reduction in higher graded and supervisory and managerial positions consistent with the goals of the National Performance Review. We have set as our tentative priorities for use of FY 1995 buyouts further reductions of staff in specific downsizing program areas and further addressing of the abovementioned skills-mix problems caused by major shifts in the Department's missions and program priorities.

USE OF BUYOUT AUTHORITY IN FISCAL YEAR 1994

By the end of FY 1994, the Department of Energy will have offered approximately 600 buyouts. The Bonneville Power Administration will offer approximately 240 of these buyouts to support its goals as a Government reinvention laboratory. As an example of reinvention, buyouts have allowed the Bonneville Power Administration to implement a new organization structure that is more customer focused with fewer layers of authority, and with significantly fewer employees. The remainder of the Department will offer approximately 360 buyouts with about 78 percent of the buyouts being offered to employees in grades 14 and above. In addition, over 40 percent of buyouts offered are going to employees in occupations targeted for reduction by the National Performance Review and over 70 percent have been offered in organizations that have been identified by the Department for staff reductions due to mission and priority changes.

Buyouts should also help the Department achieve a more diverse work force in line with Secretary O'Leary's goals. In this regard, most of the buyouts being authorized are for long-time workers eligible for early or optional retirement. The separations of these employees are creating opportunities to improve diversity. On the other hand, low attrition rates and/or reduction-in-force (resulting from an absence of buyout authority) would adversely impact diversity, particularly affecting recent hires.

EXPECTED USE OF BUYOUT AUTHORITY IN FISCAL YEAR 1995

The Department obtained approval to offer up to 600 buyouts in FY 1994, and we intend to fully utilize the allocation. Plans to offer additional buyouts in Fiscal

Year 1995 are crucial to continuation of Departmental initiatives to streamline and reengineer its workforce and work processes, meet National Performance Review goals, and restructure and rightsize its workforce to address skills mix imbalances, to achieve reduced staffing levels in downsizing program areas, and to enhance workforce diversity.

VIEWS ON H.R. 4488

The Department of Energy notes that H.R. 4488 would amend the Workforce Restructuring Act of 1994 to provide that the duties performed by individuals separating from Government service via buyouts may not be performed in whole or in part, by any person under contract with the United States. However, the Department notes that the current legislation already requires the President to ensure that there is no increase in agencies' procurement of service contracts as a result of providing buyouts. An exemption to this is a cost comparison which demonstrates such contracts would be to the financial advantage of the Government. In addition, current law requires that an employee who separates with a buyout and becomes reemployed by the Federal government within 5 years, either in an agency or under a personal services contract, must repay the entire amount of the incentive.

CONCLUSION

The Department of Energy continues to benefit from the authorities contained in the Workforce Restructuring Act of 1994. This legislation has proved to be important to our success in reinventing and rightsizing the Department.

Ms. NORTON. Ms. Trujeque.

Ms. TRUJEQUE. Madam Chair. Thank you for providing me the opportunity to testify on the operation of the governmentwide buyout program under the Federal Restructuring Act of 1994 and on H.R. 4488.

The buyout program has been particularly useful to the Department of the Interior. Interior's streamlining strategies are fully in keeping with the kinds of investments the President called for when he took office, and are aimed at strengthening our efforts in program areas such as park rangers protecting the safety of the visiting public, biologists protecting wildlife, teachers at Indian schools, and scientists predicting earthquakes.

The goals of our rightsizing efforts will improve the efficiency of delayering organizations and reducing program oversight positions, thereby empowering managers and employees who deal directly with our customers every day. Without the use of buyouts, initial implementation of our streamlining plan would have required the use of a reduction in force.

Reduction in force has—as you know, has proven to be a costly alternative. When I say "costly," I am not merely referring to the monetary costs of RIF's. Morale suffers significantly and the impact on minorities and women is considerable. The impact on minorities and women is especially difficult when one of Interior's major goals is to create a more diverse work force.

The Voluntary Separation Incentive Program allowed us the flexibility to tailor our buyout program to our rightsizing goals. Each of our 10 bureaus designed their own buyout programs customized to fit their individual reinvention efforts. This would not have been possible under RIF. Interior's initial buyout program resulted in applications from 3,850 employees. We were able to approve the applications of 3,086. While our program was also open to the entire employee population, our primary targets were employees in the Senior Executive Service, GS–15 and GS–14 positions, and also those employees in the NPR targeted positions—personnel, budget, and procurement.

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We have begun another Voluntary Separation Incentive Program offering for fiscal year 1995 and anticipate the extensive use of buyouts throughout our bureaus, again using customized programs to meet rightsizing goals.

As regards H.R. 4488, which would prohibit an agency from contracting out in whole or in part the duties previously performed by an employee who separated from government service upon receiving a buyout. While we have no plans to contract out and have not contracted out any of the positions which we have bought out, we believe, however, that decisions on the most cost-effective and efficient means of getting work accomplished are best determined within the individual agencies acting in partnership with their unions.

Interior has an active departmental labor-management partnership, and we feel that operational decisions of this type are best dealt with through this process.

This concludes my prepared statement, and I will be pleased to answer any questions.

[The prepared statement of Ms. Trujeque follows:]

PREPARED STATEMENT OF THERESA TRUJEQUE, DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES, DEPARTMENT OF THE INTERIOR

Madam Chair and Members of the subcommittee, thank you for providing me with the opportunity to testify on the operation of the government-wide buyout program under the Federal Restructuring Act of 1994, and on H.R. 4488.

The buyout program has been particularly useful to our department. Interior's streamlining strategies are fully in keeping with the kinds of investments the President called for when he took office and are aimed at strengthening our efforts in program areas: Park Rangers Ensuring the Safety of the Visiting Public, Biologists Protecting Wildlife, Teachers at Indian Schools, Scientists Predicting Earthquakes, and Inspectors and Auditors Examining Thousands of Leases.

The goals of our rightsizing efforts will improve efficiency by delayering organizations and reducing program oversight positions, thereby empowering managers and employees who deal directly with our customers everyday. Without the use of buyout, initial implementation of our streamlining plan would have required the use of reduction in force.

Reduction in force has proven to be a costly alternative. When I say costly I am not merely referring to the monetary costs of RIF. Morale suffers significantly and the impact on minorities and women is considerable. The impact on minorities and women is especially difficult when we are trying to create a diverse workforce.

The Voluntary Separation Incentive Program (VSIP) allowed us the flexibility to tailor our buyout program to our rightsizing goals. Each of our 10 bureaus designed their own buyout program customized to fit their individual reinvention efforts. This would not have been possible under RIF.

Interior's initial buyout program resulted in applications from 3,850 employees. We were able to approve the applications of 3,086. The Department's buyout program was open to all employees, with the exception of non career SES and schedule C positions and some auditors and park police. While the program was open to almost the entire employee population, our primary targets were senior level positions i.e. SES, GS–15 and GS–14 positions, supervisors and managers, and employees in occupations that will be affected by national performance review recommendations that will reengineer personnel, procurement, budget, etc.

We have begun another VSIP offering and anticipate the extensive use of buyouts throughout our bureaus, again using customized programs to meet rightsizing goals.

HR 4488 would prohibit an agency from contracting out, in whole or in part, the duties previously performed by an employee who separated from government service upon receiving such a buyout. Decisions on the most cost effective and efficient means of getting work accomplished are best determined within the individual agencies acting in partnership with their unions. Interior has an active departmental labor management partnership and we feel that operational decisions of this type are best dealt with through this process.

This concludes my prepared statement. I will be pleased to answer questions.

Ms. NORTON. Thank you.

Do any of you anticipate the need for RIF's in the coming fiscal year?

Ms. TRUJEQUE. We do not in the Department of the Interior. We believe the buyout will assist us without having to go through RIF's.

Mr. DIRKS. Nor do we at the Department of Energy.

Mr. MCCOWAN. Nor do we at the Department of Education.

Mr. SEYMOUR. Nor DOT.

Ms. NORTON. There was some testimony—Mr. McCowan, I believe you testified that your first offer of buyouts was to all employees and your next will be limited. Why did you offer to all employees the first time and why are you limiting it to upper-level employees in the coming period?

Mr. MCCOWAN. The first buyout was offered to all employees because—for two reasons, both related to equity. First, we did in fact survey the eligible employees prior to offering the buyout and found that there was a great desire amongst those employees to participate at all levels. Second, from the beginning, we worked in partnership with our union and agreed with them that it was important to be sensitive to employees' desires at all levels to have an opportunity to take advantage of the buyout. As a result, we decided that there was no reason for us not to make it more broadly available and did so.

In terms of offering a second buyout, however, we are now trying to concentrate on the goal of delayering the organization and increasing the span and control of our supervisors. We are currently at about a 1-to-5 supervisor-to-employee ratio. We are trying to increase that ratio as much as possible and while we have made some gains as a result of the first buyout, it is not going to get us as far as we would like to go.

I should add that we have again been in consultation with our union leadership about the second buyout, and they have agreed with us that that would be a useful way of going about it.

Ms. NORTON. Do the rest of you target the entire agency or are you limited in this, how you intend to do it next time?

Mr. Seymour.

Mr. SEYMOUR. At DOT, the great majority of our numbers to date are from the FAA, and in the FAA there were categories of employees excluded, primarily air traffic controllers and some of the other safety and maintenance workforce.

In the Office of the Secretary and the Maritime Administration, which were the other two fairly significant areas where we had buyouts—the buyouts in OST for example were offered to senior employees, and we intend to offer them to all employees this coming fiscal year.

I might add, as we do that, we survey employees ahead of time to see where there is potential interest. We write the buyout opportunity in a way that employees can apply, and we let them, employees, know what the criteria would be within certain guidelines for letting them have the opportunity to buy out; and should we get a situation, which we haven't had to date, where we had too many employees in a particular category applying for buyout, we leave ourselves the flexibility to make the hard call that we can't take so many that we would affect adversely the way we do our work.

So those are the kinds of parameters we put in place.

Ms. NORTON. Mr. Dirks.

Mr. DIRKS. Madam Chair, we targeted three major groups this past year. Higher graded employees in grades 14 through the SES, supervisory and managerial positions at all grade levels, and employees in organizations and programs that we are downsizing within the Department.

Ms. NORTON. Ms. Trujeque.

Ms. TRUJEQUE. For fiscal year 1994 we offered the buyouts to all employees but had as primary targets employees in the Senior Executive Service 14's and 15's, supervisors and managers. In fiscal year 1995, it is going to be much more targeted, positions which are again supervisors and managers and those in the NPR targeted positions such as personnel, procurement specialists, budget, so forth.

Ms. NORTON. Did you inform OMB ahead of time how you were targeting your particular buyouts this year, and did they have any comments on it? Any of you?

Mr. SEYMOUR. I don't believe we have our fiscal year 1995 plan in to OMB.

Ms. NORTON. I am talking about the buyouts that have already taken place.

Mr. SEYMOUR. We submitted all the buyout plans as OMB had required, yes.

Ms. NORTON. Was there any feedback from OMB?

Mr. SEYMOUR. We had dialog with our budget examiners, yes, we did.

Ms. NORTON. What was the discussion? What were the topics discussed in those?

Mr. SEYMOUR. Basically, they want more information about how—what kind of employees, what kind of functions the buyouts were expected to come from, how that would affect the workforce, how we would use buyouts as an opportunity to achieve the NPR goals, how we would assure there was not an adverse impact on work, whether in fact we were really going to take the dollar and FTE cuts that are consistent with the law, those kind of things.

Ms. NORTON. How did the NPR goals figure in the buyouts that the four of you did this year?

Ms. Trujeque.

Ms. TRUJEQUE. Well, the NPR goals fit in, especially when it comes to the reduction of supervisors and managers—that was one of our primary targets—and also the reductions of the NPR targeted positions, as I mentioned earlier, personnel, budget, procurement specialists.

Ms. NORTON. Mr. Dirks.

Mr. DIRKS. Much the same at our department. We focused on supervisors and managers consistent with the NPR, as well as meeting staffing targets that have been assigned to us by our budget process.

Ms. NORTON. Mr. McCowan.

Mr. MCCOWAN. In our case, it helps on several fronts—one, is with the streamlining objectives as spelled out in NPR. We are aggressively, seeking to delayer our organization in all of our divisions and to increase the span and control of supervisors.

But relatedly, the buyouts have provided us with the flexibility that we need to recruit the mix of skills that will help us to more effectively deliver some of our critical programs and services—for example, in the area of direct lending where we are looking for a certain set of skills. It also gives us some greater flexibility as we go through the process of reengineering some of our core processes in different parts of the organization to move people around based on the results of those reengineering exercises.

All of those things are really conducive with our efforts to achieve the NPR objectives.

Ms. NORTON. Let me see if I can understand your need.

Your first—your 1994 buyouts going to everybody in the agency clearly don't deal with delayering. You found it necessary to get a certain number of people out so you could bring more people of a different kind in? Is that why you did agency-wide nondescript buyouts this first year?

Mr. MCCOWAN. No. The primary reason that we did a broad buyout the first time was equity concerns in terms of being fair to all of our employees. In fact, the first buyout did help us in terms of trying to achieve the delayering and increase the span and control of managers. All of the 392 employees who took the buyout were not supervisors, obviously, but a significant number of them were, so that actually did help us.

Ms. NORTON. But that was no fault of your own because you did an agency-wide buyout? That just happened to be the case?

Mr. MCCOWAN. As we interviewed folks and surveyed employees, we actually had a fairly good idea which of those employees who were eligible were going to take the buyout; and before we actually made the final decision that we were going to allow a broad-based buyout, we had a pretty good indication that in fact there would be a significant number of those employees who would fall in management and/or supervisor positions.

So we didn't just offer it without going through some analysis as to what the results, or having some way of forecasting what the results, were going to be.

Ms. NORTON. Mr. Seymour.

Mr. SEYMOUR. Much the same kind of approach was taken. We have tried very hard to manage this process and will continue to do so in 1995 so that, as I mentioned earlier, you don't find yourself short in a particular area.

In the Office of the Secretary, we had about 35 buyouts last year. That is about 3 percent—less than 3 percent of our workforce, but they were primarily in the senior levels. While it did not give us a chance to make significant inroads on supervisory ratios across DOT, it certainly enabled us to begin to get at that problem. We have tried strategically to use buyouts in that way and to reshape the workforce.

There was some discussion earlier this morning about—the example that came to my mind when we were talking about buyouts was a situation where you may have an office chief and a deputy office chief. The office chief may be permitted to take a buyout. The deputy office chief takes over and you are able to eliminate a layer of management, reduce a supervisor. Those are the kinds of things we have looked at in terms of these opportunities.

Ms. NORTON. It is difficult to do downsizing and restructuring and efficiency all at the same time, to kind of know for sure that all of this is going to end up more efficient. Mr. McCowan's notion of equity is understandable, particularly since you have got to work with people who are left in the agency. Interestingly, he has never been mentioned by OMB or you didn't hear him mention in his testimony that came before.

Our only concern would be, I suppose, that any notion that buyouts at—any misunderstanding of what the purpose of buyouts were. I know that people have been waiting for them a long time, but I find it interesting and again altogether understandable that there would have been any notion that voluntary buyouts were anything anybody was entitled to except for the convenience of the government. And it may be that because the notion was out there for so long that hopes built up in people, and the Congress and the administration didn't do a good enough job, so that in the Department of Education's case, you wouldn't have had people believing that there was an equity content to these buyouts. I do not believe that there was meant to be an equity content to the buyouts and believe that you could find yourself at some later point—unless there is going to be a lot of turnover in the agency anyway—with shortfalls that were unintended.

I don't think we ever would have gotten these buyouts, in other words, on an equity basis. Congressmen never voted them. They have never been done that way in DOD; they had to get rid of people in order to save money. And one thing we may have to do to avoid building up the same kinds of expectations is, to other agencies—clearly, you all in the Department of Education are going to target it differently this time. One thing that we may have to be clearer about, and D.C. administration may have to be clear about is why buyouts are given and what employees have a right to expect.

Again, I understand perfectly the notion of let's try to be fair to everybody first, but you could end up in a position where there are some people left to do much too much work because of the way the buyouts have occurred. And it is very hard to know, even with the delayering, whether or not you are going to end up that way.

All of this is—for all of the jargon and, in many ways, very intelligent thinking of my good friend and colleague, Mr. Koskinen, that preceded, there is very little science to this. And our great fear is that in the year 2000 the unions are going to be at everybody's throat and saying, how in the world could you all have done this to us and left us with people working well beyond anything that should be expected. And given the amount of work you are putting on, I can tell you one thing—and I do not have to vote on the next vote because it is a conference report—but I can tell you one thing, as the Congress votes programs, nobody over here is saying, I wonder if there are enough folks over there to do it.

So you are going to have to watch out for yourselves, because nobody over here is watching out for you in that respect at least.

Mr. Seymour.

Mr. SEYMOUR. I hope we didn't give you the impression that at DOT we are looking at it as a matter of equity and everybody gets an opportunity to take a buyout. We have tried hard to use it as a tool. And I wanted to point out that in a couple of our organizations—the Federal Railway Administration, for example, employment is proposed to grow over the next year or two so we are doing some mixing and matching and analyzing where we think we can live with the kind of cuts we have.

Ms. NORTON. I understand exactly. Everybody testified. I understand what everybody was doing, and I think what everybody was doing made a lot of sense. I am simply cautioning us as we proceed.

You have all testified you have not done any contracting out of employee work that was formerly done by bought-out employees. What is the amount of service contracts in each of your agencies?

Mr. SEYMOUR. Ours is probably in the $2 billion range. We have got a pretty significant amount of service contracts at DOT, and a great—tremendous amount of that is in the area of engineering services for air traffic control and rebuilding air traffic control systems.

And if I may, Madam Chair, I might talk about a contracting-out issue which I think is germane to the conversation. In the FAA there have been plans under way for quite a long time to contract out what they call level one towers—the very small, very low-activity towers. They are towers that are a bit bigger than many that are run privately. There are approximately 100 of these towers across the country with approximately 800 to 1,000 men and women staffing them.

Studies have shown that the FAA could save perhaps as much as $2 million per tower—$2 million per tower per year in conjunction with all the changes they are making with air traffic control procedures. This was the decision FAA had made to undertake closing these towers. What they are doing is offering air traffic controllers in these towers an opportunity to go to other towers or to take the buyout. It is a tool to help us in this case to implement a decision that was already made.

Ms. NORTON. When was the decision made?

Mr. SEYMOUR. It has been under discussion for years, and was part of the budget proposal, I think, going into the decisions made for 1994.

I wanted to put that on the table because there are buyouts affiliated with it, but it is a tool to help do something which was going on anyway.

Ms. NORTON. Mr. McCowan, the number and amount in service contracts at the Department of Education?

Mr. MCCOWAN. Approximately $600 million is planned for other services contract in the Department for 1994.

Ms. NORTON. Let me ask each of you, what is the budget of your agency, as well? Mr. Seymour, what is the budget?

Mr. SEYMOUR. Ours is in the $38.5 billion range, including grants for the Federal Highway Administration.

Ms. NORTON. Mr. McCowan.

Mr. MCCOWAN. Ours is approximately $30 billion.

Ms. NORTON. Mr. Dirks.

Mr. DIRKS. Madam Chair, I do not have dollar amount figures for you relative to the budget or service contracts. At the beginning of fiscal year 1994, we had approximately 645 service contracts established at the Department.

Ms. NORTON. Would you forward that information to us within the next 30 days?

Mr. DIRKS. Yes.

[The information referred to follows:]

The Department had approximately 645 support services contracts with a dollar amount of $862 million in fiscal year 1994.

Ms. TRUJEQUE. I also don't have those figures for you, but I will get them to you.

Ms. NORTON. Thank you.

[The information referred to follows:]

The overall Departmental budget is 9.5 billion dollars and total expenditures for service contracts are 604 million dollars.

Ms. NORTON. Have the buyouts and downsizing had any effect on the percentage of women and minorities in the Agency?

Mr. MCCOWAN. In our case, they virtually had no effect.

Mr. SEYMOUR. At DOT, the proportion of minorities taking buyouts was less than the proportion of minorities in the total population. Total population is about 19, 20 percent. The percentage taking buyouts was considerably less than that. As you have already explained to us earlier, you understand the ramifications of reduction in force; and I think the benefits were that we were able to retain employees we have hired recently and they were not affected by reductions in force. That is an additional major benefit.

Ms. NORTON. Mr. Dirks.

Mr. DIRKS. Approximately two-thirds of buyouts that we will have offered by the end of fiscal year 1994 will have been to white males. Most of our buyouts, of course, are occurring from July to the present time and so the impact on any improvement in diversity has not yet been seen. We are very hopeful that some of the hiring opportunities that we might have as a result of buyouts can result in improved diversity.

Ms. NORTON. Ms. Trujeque.

Ms. TRUJEQUE. No impact on minorities and women. In fact, one of our bureaus reported that they had an increase in minorities because of the buyouts.

Ms. NORTON. What was each of your respective agency's supervisor-to-employee ratio before the buyouts and what are they now? Mr. Seymour.

Mr. SEYMOUR. Across the Department, ours were approximately 1 to 7.5 at the start of this year, and we have not done the math again. I can't give you updated figures. I will be happy to provide them for the record.

[The information referred to follows:]

In March 1993, the ratio was 5.5 to 1. In September 1994, the ratio was 5.9 to 1.

Mr. SEYMOUR. We have got a plan, Madam Chair, as I suspect everybody does, to take us to a ratio which gets closer to 1-to-15, and it is something we manage with our Deputy Secretary and with our operating administrations to track how we are going to get to that point.

Ms. NORTON. Mr. McCowan.

Mr. MCCOWAN. At the Department of Education, Madam Chair, ours was 1-to-6 prior to the buyout, and it is 1-to-6 post-buyout. However, we are anticipating, based on the preparations that we are doing for our October 3d streamlining plan submission, that we will be going to 1-to-7 or 1-to-8 in the near future and are going to be looking to improve on that as we go forward and continue to try to improve our operations.

Ms. NORTON. Mr. Dirks.

Mr. DIRKS. At the inception of the buyout program, our ratio was 1 supervisor to 4.7 employees. Currently, it is 1-to-5.5. This data is not current; it is a couple of weeks old. We hope to be able to achieve a ratio of 1-to-10 during fiscal year 1995, and we think the buyout will be a valuable tool in aiding us.

Ms. TRUJEQUE. Our ratio is 1-to-6, and based on the fiscal year 1994 buyout, I don't think it changed significantly, but we have plans to go to the 1-to-15 at least by fiscal year 1999.

Ms. NORTON. To the extent that there has been any employee criticism or suggestions with respect to the buyouts, what were they?

Ms. TRUJEQUE. For the Department of Interior—I guess the one we heard the most often was, there weren't enough buyouts offered, that every employee should have been considered for a buyout and that for fiscal year 1995 we should open it up much more widely than we did in 1994. I think that is the major criticism we have heard in our agency.

Mr. DIRKS. Very much the same at the Department of Energy. The criticism we have had is that the buyouts weren't made more broadly available to nonsupervisors, and employees in organizations that were not downsizing.

Ms. NORTON. Mr. McCowan.

Mr. MCCOWAN. Madam Chair, we have not received any criticism from our employees.

Mr. SEYMOUR. Some of the comments you have already heard, plus just generally providing a longer opportunity for people to consider their options, which I think we are providing this time.

Ms. NORTON. Finally, what do you perceive as matters that might have hampered the buyouts or might improve the use of buyout authority?

There was the 9-percent pension payment, the notion of limitations on back-filling, et cetera. Do you have any suggestions on those or any other matters to make with respect to the use of buyout authority in the future?

You love it the way it is?

Ms. TRUJEQUE. I think it is working fine the way it is. It worked very well for us in 1994, and we expect it to work very well for us in 1995.

Mr. SEYMOUR. We found it to be a valuable tool, one which, if you plan how you are going to use it, works effectively. Certainly the monetary limits and the additional contributions are a factor, but we found there are ways to deal with those by, for example, staging buyouts at the beginning of a fiscal year so you can take advantage of salary lapses and that sort of thing to make it work.

Mr. McCOWAN. Madam Chair, I guess I would just say clearly, if not handled correctly, the buyouts could wind up having an adverse effect on employee morale at precisely the time when we are asking employees to go through a lot of organizational change as we try to improve the quality of our operations.

What we found however is that if you work with your unions and are sensitive to the impact that the buyout and the way it is administered will have on employees, you can address most of those potential problems on the front end.

Ms. NORTON. Mr. Dirks.

Mr. DIRKS. We very much think the buyout is a good tool for rightsizing and restructuring, and look forward to its continued use in fiscal year 1995.

Ms. NORTON. I want to thank each of you for coming forward. What is most important for us in the long run is the agency-by-agency effect of our legislation. Thank you very much for this very valuable testimony.

Could I ask panel three Agencies to come forward: Mr. John Landers, GSA; General Spence Armstrong, National Aeronautics and Space Administration; Ms. Nancy Suttenfield, Smithsonian Institution; Mr. Richard Stephens, former Acting Associate Director for Management at United States Information Agency.

We have your testimony, and I will admit your full testimony into the record and ask that you summarize your testimony, given how long we have kept everyone. And I apologize to you. I know some of you have been here while we have been examining other testimonies; I apologize for keeping you waiting.

STATEMENTS OF JOHN LANDERS, DEPUTY ASSOCIATE ADMINISTRATOR FOR MANAGEMENT SERVICES & HUMAN RESOURCES, GENERAL SERVICES ADMINISTRATION; GENERAL SPENCE ARMSTRONG, ASSOCIATE ADMINISTRATOR FOR HUMAN RESOURCES & EDUCATION, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION; NANCY SUTTENFIELD, ASSISTANT SECRETARY FOR ADMINISTRATION, THE SMITHSONIAN INSTITUTION; AND RICHARD STEPHENS, FORMER ACTING ASSOCIATE DIRECTOR FOR MANAGEMENT, UNITED STATES INFORMATION AGENCY

Ms. NORTON. You may testify, I suppose, in the order in which you are seated. Mr. Landers first.

Mr. LANDERS. Madam Chairman and Members, I am pleased to be here to represent the General Services Administration. Earlier this year, Administrator Roger Johnson testified before this subcommittee in favor of the buyout legislation. We felt that we needed the buyout authority to help achieve the administration's staff reduction goals and the business challenges facing the General Services Administration.

After getting agreement from our unions, GSA offered buyouts in April of this year. Employees had a deadline of July 15 to decide whether they wanted to apply for the buyout; 2,442 did apply. Some have left this fiscal year; most will leave in the first part of fiscal year 1995 between October and December.

GSA has no plans to offer additional buyouts. We feel that the program is an unqualified success. Because of the buyout and the fact that GSA has had a 14-month, essentially hard freeze with only a few exceptions, by the time the buyouts are completed in January of 1995, those departures plus not filling jobs that have been vacated for the last 14 months, GSA's overall employment number will be at our 1999 goal. So we will have achieved numerically in 1995, the goal for 1999; and importantly, we have been able to do this with no disruptive reductions in force.

In 1995, we will probably be able to have some judicious hiring to satisfy customer service needs. Going forward, senior managers will have the flexibility to hire based on some principles.

The Leadership Council of GSA is meeting today and tomorrow to go over plans that the regions have submitted. And the notion of the principles which the group will work on, and maybe refine some, would include such things as improving the supervisory ratio, working on the senior level reduction initiative, increased diversity throughout the organization including management, initiate job enrichment and job rotation opportunities for staff members, improve training opportunities for all employees, and institutionalize the collaboration between and among GSA organizations.

That concludes my comments, Madam Chairman. If there are any questions, I would be glad to answer them.

Ms. NORTON. Thank you very much, Mr. Landers.

[The prepared statement of Mr. Landers follows:]

PREPARED STATEMENT OF JOHN LANDERS, DEPUTY ASSOCIATE ADMINISTRATOR FOR MANAGEMENT SERVICES AND HUMAN RESOURCES, GENERAL SERVICES ADMINISTRATION

Madam Chair and Members of the Subcommittee, it is my pleasure to be here today to testify on behalf of the General Services Administration (GSA) on the agency's use of the government-wide buyout authority. On February 1, 1994, GSA Administrator Roger Johnson appeared before this subcommittee and the Subcommittee on Civil Service, to testify in support of the Federal Workforce Restructuring Act of 1994. Administrator Johnson testified that GSA needed buyout authority in order to help achieve the Administration's workforce reduction goals and for the agency to meet the business challenges of the future. I am pleased to say that by using the buyout authority, GSA is well on its way to creating an agency that works better and costs less.

On April 19, 1994, after consultation with and the consensus of our union partners, GSA offered agency-wide buyouts to all eligible GSA employees. Employees were given until July 15, 1994, to apply. Agency-wide 2,442 employees have applied to take a buyout. Although the buyouts were offered in FY 1994, most employees will be leaving during FY 1995, specifically, between October 1 and December 31, 1994. At this time, GSA does not plan to offer additional buyouts in FY 1995. Our theory was to use the buyout authority, coupled with a hiring freeze, to specifically create opportunities for promotion and advancement which would otherwise not be available in the environment of a declining workforce.

GSA's buyout program has been an unqualified success. Due to the buyout authority and a 14-month across the board hiring freeze known as "pause and reflect," GSA has been able to reduce its workforce for fiscal year 1995 to below the level mandated by the President for fiscal year 1999. All of this has been done without the use of reductions-in-force or other disruptive and morale damaging procedures. During 1995, we will be able to judiciously hire employees to address pressing customer service needs and to fulfill responsibilities identified through reengineering. All openings are available first and foremost to existing GSA employees for transfer, rotation or promotion.

We will give senior managers the latitude to prudently manage from the authorized FY 1996 number of 17,819 to the 17,032 contemplated for FY 1999. This management flexibility will be based on adherence to the following principles: 1. Improve the supervisory ratio, including the senior level reduction initiative; 2. Increase diversity throughout the organization, including management; 3. Initiate job enrichment and job rotation opportunities, including intra- and inter-GSA as well as interagency; 4. Improve training opportunities for all employees; and 5. Institutionalize the collaboration between/among GSA organizations.

At GSA's Leadership Counsel Meeting being held today and tomorrow, regional staffing plans are being evaluated against these principles and the effect of this careful action should be evident by early 1995.

Thank you for the opportunity to present GSA's experience with the buyout legislation. GSA appreciates this subcommittee's continuing interest in our employees. This concludes my prepared statement. I would be happy to answer any questions.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ELEANOR HOLMES NORTON TO JOHN LANDERS

Question 1A. Has your agency submitted a final streamlining plan to OMB for your agency? If not, why not?

Answer. GSA has submitted a final streamlining plan to OMB.

Question 1B. Based on such plans, what, if any, significant changes does your agency contemplate in its work force?

Answer. The most significant change is that GSA will have fewer employees. Otherwise, the buyouts did not affect the mix of staff members significantly.

Question 1C. Do you anticipate that buyouts will enable your agency to avoid the need for RIFs to achieve required reductions? If not, how many RIFs will be necessary?

Answer. Since GSA had such a large number of employees who have applied for the buyout and since we have had a virtual hiring freeze in effect for over a year, we do not anticipate that we will need a RIF.

Question 2A. How were your buyouts in fiscal year 1994 targeted?

Answer. GSA buyouts were not targeted. They were offered to all GSA employees.

Question 2B. How are you targeting your fiscal year 1995 buyouts?

Answer. GSA is not planning to offer buyouts in fiscal year 1995.

Question 3A. Has your agency made any request of OMB to have itself exempted from the personnel ceilings mandated in the Workforce Restructuring Act? If so, has the request been granted?

Answer. GSA has not made such a request.

Question 3B. What management procedures has your agency implemented to comply with section 5(g) of the Workforce Restructuring Act?

Answer. The Administrator has instructed senior GSA executives that they should not replace departing staff members with service contracts unless it is financially prudent to do so.

Question 4. What affect have buyouts and downsizing had on the percentage of women and minorities at your agency?

Answer. When the buyouts are complete in January 1995 the percentage of women and minorities at GSA will be relatively unchanged. The percentage of women will have decreased by 0.5 and the percentage of minorities will have increased by 0.5.

Question 5. What kind of effort did your agency make in advance surveying of employee interest in buyouts, consultation with employees and their union representatives about your plans for utilizing buyouts, and counseling employees about their buyout options?

Answer. GSA consulted extensively with both of its unions, the American Federation of Government Employees and the National Federation of Federal Employees, as we developed the buyout proposal. Each region and the Central Office held numerous pre-retirement counseling sessions (group and individual).

Question 6A. To the extent you have received emoployee criticism of your agency's buyouts, what were the nature of the criticisms?

Answer. GSA has received virtually no employee criticism over the buyout.

Question 6B. Has your agency structured its buyouts for fiscal year 1995 to address such concerns? Why or why not?

Answer. GSA is not planning any buyouts for fiscal year 1995.

Question 7A. What was your agency's supervisor-to-employee ratio before the fiscal year 1994 buyouts? After these buyouts?

Answer. As of September 30, 1993, the GSA supervisor-to-employee ratio was 1 to 6. In January 1995, the ratio will be 1 to 6.

Question 7B. What is the ratio anticipated after fiscal year 1995 buyouts?

Answer. GSA is not planning any buyouts for fiscal year 1995.

Question 8. Are there any specific provisions of the Act which you feel have hampered your ability to use buyout authority (such as the back-fill limitation or the 9% payment for early retirees)?

Answer. No. There are no specific provisions of the Act which have hampered the agency's ability to use the buyout authority.

Ms. NORTON. General Armstrong.

General ARMSTRONG. Thank you, Madam Chair. We are delighted to be here today, if for nothing more than to thank you for your efforts back on February 1 this past year where your subcommittee's efforts were very instrumental in getting the buyout approved—something we at NASA desperately needed.

We have completed our buyout. We don't intend to have another one this year. It has achieved the desires that we had.

Let me just say one thing that is unique, I think, about our Agency is that the reason for us needing a buyout preceded by 1 year the urgency of other agencies. When we redesigned space station *Freedom* into a different concept, we said that we could do it with about 50 percent of the personnel that previously had been assigned. Congress took us up on that and deleted that number from our 1994 budget, and also gave us an end strength that we needed to hit. So as we were progressing through 1994, we understood that if we didn't get the buyout, not only would we have difficulty in 1994, but we would be entering 1995 with approximately 400 more FTE's than we were funded for in our runout program. So, for us, the buyout was an essential element in trying to solve our problem, and we are very thankful to have the opportunity to use that instead of a RIF, a furlough, or some other means in order to achieve those dollar levels.

As you asked the questions about how our targeting was influenced by the NPR, I must say that NASA, because we started this over a year ago, before the NPR, we targeted our buyout allocations to the places where the space station redesign would have the impact, because we were trying to solve a problem where people would not be involved in work as opposed to the categories proposed by the NPR.

And I will be happy to answer the questions in due time, Madam Chair.

Ms. NORTON. Thank you very much, General Armstrong.

[The prepared statement of General Armstrong follows:]

PREPARED STATEMENT OF GEN. SPENCE ARMSTRONG, ASSOCIATE ADMINISTRATOR FOR HUMAN RESOURCES AND EDUCATION, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Madam Chair and Members of the Committee, thank you for this opportunity to address the Committee on NASA's buyout program. We consider our buyout to have been an unqualified success. When NASA appeared before this Committee seeking buyout authority in February, we were faced with a three-pronged reduction requirement: the Administration had undertaken a redesign of the Space Station program, the Administration wanted us to reduce our high grades by 10%, and Congress and the Administration called for an overall workforce reduction of 12%. Meanwhile, our attrition rate had plummeted by 40% compared to the previous decade.

We are an Agency committed to avoiding reduction in force (RIF) at all costs; yet, we were facing a momentous challenge to make major staff reductions without adversely impacting our employees and programs. Not only did the buyout provide us with a positive tool to accomplish this goal without pain, but we were able to target our high-grade employees, and even ended up with a more diverse workforce than when we started. Had we resorted to RIF, we would have lost lower-graded, lowersalaried employees, with a disproportionate number of minorities and females impacted. Costs to the Agency, in dollars and lost productivity due to poor employee morale as well as the cascading effect of reduction in force displacements, would have been much greater under RIF than through buyout.

We separated 1,176 employees through buyout. These employees chose to leave Government service because they were ready to move on to retirement or other endeavors. They were not forced out of their jobs by RIF. We got through a potentially painful time very smoothly, and now can move on to face the challenge of accomplishing our mission with a smaller workforce. Since we have achieved our downsizing goals for the short term, we have no need, and no plan, to offer any buyouts in fiscal year 1995.

I would like to comment briefly on H.R. 4488. At NASA, we are committed to changing the way we perform our work, both with Civil Servants and with contractors. We will not replace a Civil Servant who takes a buyout with a contractor employee. However, we think the stringent restriction in this bill would hamper the Agency as we reengineer our work. It would lead to unnecessary hair-splitting about which work may be contracted out. The restriction in the Federal Workforce Restructuring Act of 1994 is sufficient to ensure that agencies do not increase the money spent for contracts as they reduce the money spent for salaries.

Thank you again, Madam Chair, for this opportunity to report to you on NASA's successful implementation of buyout, and for this Committee's role in achieving this landmark legislation.

Response to Written Questions Submitted by Hon. Eleanor Holmes Norton to Gen. Spence Armstrong

Question 1. Has your agency submitted a final streamlining plan to OMB for your agency? If not, why not? Based on such plans, what, if any, significant changes does your agency contemplate in its workforce? Do you anticipate that buyouts will enable your agency to avoid the need for RIFs to achieve required reduction? If not, how many RIFs will be necessary?

Answer. NASA submitted a final streamlining plan on October 3, 1994, to OMB. The significant workforce changes planned include: (1) a reduction of 4,150 FTE between fiscal year 1992 and fiscal year 1999, a 16.5 percent cut; (2) overall doubling of the supervisory span of control to a 1:11 ratio; (3) reductions of approximately 30 percent in the size of the headquarters staff and targeted administrative staffs; and (4) restructuring the organization to more efficiently carry out the missions of the NASA strategic enterprises. A buyout was used successfully in fiscal year 1994 to avoid a RIF. Unless turnover increases substantially over the next 4 years, voluntary separation incentives would be needed again in fiscal year 1998 and fiscal year 1999 in order to achieve significant FTE reductions in those years without resorting to RIF. With this possibility looming before us, we strongly urge consideration of an amendment to the Federal Workforce Restructuring Act, to make buyout a permanent tool for use in downsizing. OMB and OPM could oversee the use of buyout, in a manner similar to OPM's management of the early authority.

Question 2. How were your buyouts in fiscal year 1994 targeted? How are you targeting your fiscal 1995 buyouts?

Answer. Our buyouts in fiscal year 1994 were targeted to achieve several downsizing goals. First, we needed to reduce our Space Station program, so those Field Installations involved in Space Station were given priority when allocating buyouts. Next, we established a scheme to prioritize buyouts within each Installation, as follows:

1. Early retirement eligibles (to give an extra incentive to this large population, to counterbalance the reduction in annuity. This population included a large number of higher graded employees).
2. Supervisors and managers, grades GS/GM–14 and 15, and equivalent high-graded wage grade employees (to reduce the number of high grades and supervisors, in line with the President's directive and NPR)
3. Other GS/GM–13's and above (continuing to target high grades)
4. Remaining employees.

We do not plan a buyout program in fiscal year 1995.

Question 3. Has your agency made any request of OMB to have itself exempted from the personnel ceilings mandated in the Workforce Restructuring Act? If so, why? If so, has the request been granted?

Answer. NASA has not requested exemption from the Workforce Restructuring Act ceilings. We are engaged in a dialogue with OMB regarding the size of the reductions we will take in fiscal year 1998 and fiscal year 1999 with the objective of lessening the size of those reductions.

Question 4. What effect have buyouts and downsizing had on the percentage of women and minorities at your agency?

Answer. The fiscal year 1994 NASA buyout had a slight positive effect on the percentage of minorities in the Agency workforce. The percentage of African Americans increased by 0.2; Hispanics by 0.1; Asians and Pacific Islanders by 0.1; and the percentage of Native Americans was unchanged. The buyout had no effect on the percentage of women in the NASA workforce, since the ratio of men to women among the buyout takers roughly matched that of the overall workforce.

Question 5. What kind of effort did your agency make in advance surveying of employee interest in buyouts, consultation with employees and their union representatives about your plans for utilizing buyouts, and counseling employees about their buyout options?

Answer. We made a decision not to perform any Agencywide survey of employee interest in advance of the buyout, for several reasons. First, our counterparts at the Department of Defense had told us that such surveys were not true indicators of actual buyout results. Second, we had concerns that employees would not answer candidly, either because they wished to protect their privacy, or because they would hedge their bets when replying. We felt that structuring a survey to protect the identity of the respondent would weaken the value of the results, because it would not help us to target our buyouts. We also knew that many employees would say that they were interested, but were not seriously considering the option, or would change their minds when actually confronted with the decision. Third, since our buyout was planned to be relatively small, and not targeted at specific jobs, an advance survey was not considered an essential planning tool.

Communication with our Field Installations and national and local unions was a key to the success of our buyout. It was well known that NASA was seeking its own buyout legislation last year. Field Installation managers were an integral part of the planning process, determining how to target our buyouts, and how many to offer. Beginning early in the game, we met with national union representatives to explain our plan, obtain their input, and establish an ongoing communication. Field Installations were encouraged to share information with their local unions. Union concerns were taken into account at every stage of the buyout process.

Without exception, each of our Field Installations launched a major effort to inform and counsel employees about their opportunity for buyout, their chances of receiving an offer, and their entitlements and benefits if they chose to separate under buyout. Headquarters issued several "all-employee" letters on the topic. Newsletters, briefings, question and answer handouts, telephone hot lines and individual counseling were all used extensively to keep employees informed and help them through the decision and separation process.

Question 6. To the extent you have received employee criticism of your agency's buyouts, what were the nature of the criticisms? Has your agency structured its buyouts for fiscal year 1995 to address such concerns? Why or why not?

Answer. Our buyout program received critical acclaim from employees, managers, and unions, and is recognized by the Office of Personnel Management and other agencies as a model program. We attribute this positive image to the perception by our customers that our buyout program was a fair and open one, well-intentioned and well-run. A few employees complained that they were not "within reach" for buyout under our priority scheme. This was inevitable in any program when the numbers of applicants exceeds the number which can be accepted.

Question 7. What was your agencies supervisor-to-employee ratio before the fiscal year 1994 buyouts? after these buyouts? What is the ratio anticipated after fiscal year 1995 buyouts?

Answer. At the beginning of fiscal year 1994, NASA's supervisory ratio was 1:5.4 (Agencywide average). Immediately after the buyout, the ratio increased to 1:5.8, and has further increased to 1:6.1 as of the end of fiscal year 1994.

Question 8. Are there any specific provisions of the Act which you feel have hampered your ability to use buyout authority (such as the back-fill limitation or the 9% payment for early retirees)?

Answer. The provisions of the Act which required us to reduce one FTE for every buyout certainly had an impact on where and how many buyouts we offered. Of course, we knew we had to take a cut in FTE by the end of fiscal year 1994, with our without buyout. However, we could not afford to offer buyouts beyond this number, if we would have to give up the slots. This reduced our flexibility somewhat. For example, we could have accomplished some planned organizational restructuring, reducing more high grades and supervisors, and replacing them with lower graded nonsupervisory employees. This would have helped us meet one of the President's goal. The backfill provision obviated this option.

Clearly, the 9% payment for early retirees had to be factored into the financial planning, and reduced slightly the number of buyouts we could afford. This cost was not a major factor to us, however.

The major impediment to our effectiveness was the delay in passage of the legislation. Because of this, many agencies could not afford to offer buyouts in fiscal year 1994. At NASA, employees had been hoping for buyout for over half a year. Individuals who otherwise would have retired or resigned delayed their departures, hoping to receive a buyout. This cost us substantial salary dollars and resulted in lost productivity. Other agencies that are just now implementing buyout have experienced this phenomenon for an extended period as well. For these agencies, the restriction to salary dollars to pay buyout forced them to delay implementation until the new fiscal year, reducing the savings and other benefits of the buyout.

Question 9. In its testimony, the International Federation of Professional and Technical Engineers asserts that thirteen former employees at the NASA Lewis Research Center in Cleveland, OH, who accepted buyouts offered in May of 1994 were identified by its local union president as rehires of the research center working for support service contractors. One of these employees was hired to finish his old job while another was hired to perform the same job. Please comment.

Answer. When the union first raised their concerns in May, we looked into the matter and responded to the union president. We revisited the issue following the union's testimony before the Subcommittee. We are satisfied that no violation of the provisions of the Act occurred. Although several former Lewis employees were employed by contractors, the relationship was not of a personal services nature, as prohibited by the Act. Further, there has been no overall increase in the procurement of service contracts at Lewis as a result of the buyouts.

Ms. NORTON. Ms. Suttenfield.

Ms. SUTTENFIELD. Good afternoon, Madam Chair.

The Smithsonian announced its voluntary incentive separation program back in April with an eligibility period that began June 1 and extended through the 15th of July. We offered our program in order to meet a proposed fiscal 1995 budget reduction of $3.1 million, as well as to meet a targeted work force reduction of 229 employees. I might add, however, that we have been engaged in an active restructuring program for about 2 years, and we saw the buyout program as an opportunity and a tool to continue with our restructuring efforts.

I am pleased to report that we have largely met our work force reduction target, and in fiscal year 1995, we project that our estimated savings from the buyout program will be, in gross terms, $9.6 million. We have estimated costs of $6.3 million, and therefore, our net savings would be $3.3 million.

Since employee participation in our buyout program has allowed us to meet our fiscal year 1995 work force reduction and reduce our expenditures, we no longer contemplate reductions in force or hiring freezes. We consider the buyout program to have been a very effective program for us.

Thank you very much. I would be happy to take questions.

Ms. NORTON. Thank you, Ms. Suttenfield.

[The prepared statement of Ms. Suttenfield follows:]

PREPARED STATEMENT OF NANCY SUTTENFIELD, ASSISTANT SECRETARY FOR ADMINISTRATION, THE SMITHSONIAN INSTITUTION

Good morning, Madam Chairwoman.

It is a pleasure to appear before the Subcommittee this morning. I look forward to providing a status report on the Smithsonian Institution's employee buy-out program and discussing H.R. 4488, a bill to prohibit agencies authorized to offer buyouts under the Federal Workforce Restructuring Act of 1994 from contracting out, in whole or in part, the duties previously performed by an employee who separated from government service upon receiving such a buyout.

Over two years ago, the Smithsonian Institution began a restructuring process that included a thorough examination of all its programs. That process began a corresponding realignment of its programs and activities that continues today. It has benefitted the organization considerably in maintaining our vitality as we have had to accept the constraints of the current fiscal climate. During the winter and spring of 1994, as legislation in support of voluntary separations was under discussion, the Institution looked forward to its passage and the opportunities it would present for additional restructuring. We were pleased that the effects of the act would open professional opportunities to younger staff, many of whom are minorities and women, and would help maintain the momentum of the restructuring process.

Following passage of the Federal Workforce Restructuring Act of 1994, the Smithsonian Institution decided to make the Voluntary Separation Incentive Program available to all its Federal employees. In an organization in which more attention is paid to programs and less to hierarchy, senior management deemed it important to make participation available to all employees without regard to grade level or occupational type. The window for decision-making was opened on June 1, 1994 and closed on July 15, 1994. A total of 208 Federal employees, or 4% of the Institution's Federal workforce, applied to the program. Twenty-five (25) applicants were accepted for buyout in fiscal year 1994 and 183 have applied for buyout in fiscal year 1995. Senior management expects to provide short extensions to 16 employees with no extension being granted beyond May 1995.

We have reviewed the proposed bill (H.R. 4488) and its potential impact upon the Smithsonian. Since Section 5(G) of the Federal Workforce Restructuring Act does not restrict use of contracts to cover certain tasks and functions, so long as a cost comparison demonstrates a financial advantage to the government, the Smithsonian saw no reason to target grades or occupational series or positions and in the spirit of fair play opened the opportunity to all. The result is that mission-critical positions have now been vacated. We prefer to continue the greater flexibility allowed in the Workforce Restructuring Act for agency management to determine the most cost effective way to deliver programs.

In summary, the Smithsonian has welcomed the opportunities presented by the buyout program. With a new Secretary, installed on September 19, we look forward to additional restructuring as he leads us in shaping our vision for the next century.

Thank you for the opportunity to present our views.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ELEANOR HOLMES NORTON TO THE SMITHSONIAN INSTITUTE

Question 1A. Has your agency submitted a final streamlining plan to OMB for our agency? If not, why not?

Answer. The Smithsonian Institution submitted its streamlining plan on July 6, 1994.

Question 1B. Based on such plans, what, if any, significant changes does your agency contemplate in its workforce?

Answer. The Smithsonian Institution will realize downsizing and restructuring of its workforce. During phase one of the Smithsonian's internal restructuring process in FY 1993, the Institution eliminated Federal and Trust positions in the targeted administrative position categories. These reductions will offer opportunities to "flatten" various levels of management. It is our hope that the affects of the buyout and subsequent restructuring will open professional opportunities to younger staff, many of whom are minorities and women, and will help maintain the momentum of the restructuring process.

Question 1C. Do you anticipate that buyouts will enable our agency to avoid the need for RIFs to achieve required reductions? If not how many RIFs will be necessary?

Answer. Yes, by making the voluntary Separation Incentive Program available to all employees at the Smithsonian Institution, the Institution was able to achieve our FTE reductions without the need for RIFS.

Question 2. How were your buyouts in FY 1994 targeted? How are you targeting your FY 1995 buyouts?

Answer. The buyout program was made available to all full-time permanent employees at the Smithsonian Institution. The window for decision-making was opened on June 1, 1994 and closed on July 15, 1994. Twenty-five applicants were accepted for buyout in FY 1994 and the balance, 183, were accepted and effective October 1, 1995, to achieve maximum savings.

Question 3A. Has your agency made any request of OMB to have itself exempted from the personnel ceilings mandated in the Workforce Restructuring Act? If so, why? If so, has the request been granted?

Answer. The Smithsonian Institution has not made any request to OMB for exemption from the personnel ceilings mandated in the Workforce Restructuring Act. However, as the Institution implements restructuring plans, management will continually evaluate the Institution's ability to maintain critical mission goals within the FTEs that are available.

Question 3B. What management procedures has your agency implemented to comply with section 5(g) of the Workforce Restructuring Act (the limitation on service contracting)?

Answer. The Office of Contracting and Property Management at the Smithsonian Institution is in the process of establishing procedures to comply with section 5(g) of the Workforce Restructuring Act. In the meantime, the Institution is taking every precaution to adhere to the limitations set forth in the Act on the use of contractual services.

Question 4. What effect have buyouts and downsizing had on the percentage of women and minorities at your agency?

Answer. Prior to the buyouts, the percentage of women in the Smithsonian Institution workforce was 46.3%; after the buyouts, this is 46.8%. Before the buyouts, the percentage of minorities in the Smithsonian Institution workforce was 42.0%; after the buyouts, this percentage is 41.7%. These percentages reflect a slight increase in the percentage of women in the Smithsonian workforce and a slight decrease in the percentage of minorities in the Smithsonian workforce.

Question 5. What kind of effort did your agency make in advance surveying of employee interest in buyouts, consultation with employees and their union representatives about your plans for utilizing buyouts, and counseling employees about their buyout options?

Answer. Before offering the buyout program, all Smithsonian employees were surveyed as to whether they might take the buyout or they would definitely take the buyout. Union representatives were asked to review and comment on the proposed buyout plan before it was issued to employees; they asked for clarification on several points and discussed various elements of the plan but made no changes.

Every Smithsonian employee was offered personal counseling in connection with making a buyout decision and, for those employees who elected to take advantage of the buyout, personal counseling was given to each employee regarding retirement, health and life insurance benefits.

Question 6. To the extent you have received employee criticism of your agency's buyouts, what were the nature of the criticisms?

Answer. The Smithsonian's buyout program was very well received and to our knowledge the only complaint came from an employee who complained that the Institution's buyout program was not open to part-time employees. Because any agency loses a full-time FTE and its funding, the only group of employees who were not allowed to participate were part-time employees. However, this employee took advantage of the early retirement authority.

Question 7. What was your agency's supervisor-to-employee ratio before the FY 1994 buyouts? After these buyouts? What is the ratio anticipated after FY 1995 buyouts?

Answer. Before the buyouts, the Smithsonian's supervisor-to-employee ratio was 1:7.04. After the buyouts, the supervisor-to-employee ratio was 1:7.05.

Question 8. Are there any specific provisions of the Act which you feel have hampered your ability to use buyout authority (such as the back-fill limitation or the 9% payment for early retirees)?

Answer. The Smithsonian Institution does not feel that there are any provisions of the Act which have hampered the Institution's ability to use buyout authority.

Ms. NORTON. Mr. Stephens.

Mr. STEPHENS. I appreciate the opportunity to discuss our experience with the buyout, and I will summarize my statement. We have had a very positive experience for the Agency. The authority has been an important tool for USIA in management, in fiscal year 1994, in achieving our goal of obtaining substantial staff reductions while avoiding separation through reduction in force. The mandated Agency budget reduction for fiscal year 1995 originally included elimination of 296 positions and we began two major positional changes as part of our streamlining and restructuring to meet these cuts.

In order to achieve the reduction resulting from these and other streamlining goals of the administration, USIA established a buyout policy in partnership with Agency unions and opened a window from April 15 to May 31. We have had two successive buyout periods to date.

During this period 258 Agency employees received buyouts. Each buyout application was evaluated in terms of direct advantage to the U.S. Government; that is, either reduction in grade of the vacated position through reorganization, elimination of a supervisory position, creation of a vacant position for a retrained employee dislocated by the restructuring, or abolishment of the position. Several applications were turned down because they didn't meet the criteria.

Through the use of this buyout authority and the voluntary retraining and transferring of employees to vacated positions, the Agency has achieved thus far a substantial staff reduction without resorting to involuntary separation, which we had contemplated last summer. Our streamlining has also doubled the span of control in the newly created Information Bureau of supervisor-to-employee ratio.

The policy and procedures for buyout were conceived in concert with the partnership council, who endorsed the policy. We held an open town meeting to discuss and clarify the procedures. We circulated Q-and-A's; we established a hotline. And in addition we assisted employees in considering voluntary departure. We contracted for professional counseling and intensive outplacement assistance. Training programs were implemented and a career placement center was established.

I should note here that the total impact of our 1995 changes have not been completely addressed by our efforts so far. We face cuts principally related to the Broadcast Bureau consolidation. We will reopen buyout opportunities before implementation of the legislation on March 31, but it is likely that some involuntary separations will occur in fiscal year 1995. We must also confront projected staffing reductions in fiscal year 1996.

USIA will make every effort to achieve this downsizing through voluntary rather than through involuntary means. We will use the buyout tools—early-out, retraining, counseling, whatever we can—and in all of the programs that have worked for us so well so far.

I would be happy to take any questions.

Ms. NORTON. Thank you very much, Mr. Stephens.

[The prepared statement of Mr. Stephens follows:]

PREPARED STATEMENT OF RICHARD STEPHENS, FORMER ACTING ASSOCIATE DIRECTOR FOR MANAGEMENT, U.S. INFORMATION AGENCY

Madam Chairwoman and Members of the Subcommittee: It is a pleasure to be here today to discuss the Agency's implementation of the government-wide buyouts under the Federal Workforce Restructuring Act of 1994 (Public Law 103–226).

The buyout authority has been an important tool for USIA management in FY 94 in achieving its goals of obtaining substantial staff reductions while avoiding separations through reduction-in-force at the Agency.

The mandated Agency budget reduction for FY 95 originally included elimination of 296 positions. The Agency began two major organizational changes as part of its streamlining and budget reduction efforts. The Policy and Programs Bureau is being terminated. Many of the media, speaker and library support functions of that Bureau and other parts of the Agency are being established in a new, technologically sophisticated Information Bureau. In a second initiative, the non-military international broadcasting operations of the US Government are being consolidated. The Bureau of Broadcasting and Radio Free Europe/Radio Liberty are being consolidated in accordance with the International Broadcasting Act of 1994. These two changes will streamline USIA and better equip the Agency to conduct public diplomacy in the post-Cold War world.

In order to achieve the reduction resulting from these and other streamlining goals of the Administration, USIA established a buyout policy in partnership with Agency unions and opened a buyout window from April 15 to May 31, 1994.

During this period, 214 Agency employees received buyouts. Each buyout application was evaluated in terms of direct advantage to the USG., e.g. reduction in grade of the vacated position through reorganization, elimination of a supervisory position, creation of a vacant position for an employee dislocated by the restructuring, or abolishment of the position. (Six applications did not meet this criteria and were denied.)

Through the use of this buyout authority and the voluntary retraining and transfer of employees to vacated positions, the Agency achieved a substantial staff reduction without resort to involuntary separation, so far.

The buyout policy and procedures were conceived in concert with the Agency Partnership Council who endorsed the policy. An Agency open town meeting was held in April 1994 to discuss and clarify the procedures for all interested Agency employees. Buyout Q & A's were circulated extensively, and a buyout "hotline" was established.

In addition, to assist employees in considering voluntary departure, the Agency contracted for professional counseling and intensive outplacement assistance. A career placement center was also established.

Some features of the Agency buyout policy:

Buyouts were offered broadly throughout Civil Service categories and grades. Foreign Service Generalist positions were not included since the Agency complement was already insufficient to meet staffing needs.

Early-out authority was obtained from OPM and buyout and earlyout authority was offered to affected employees simultaneously to encourage voluntary departures.

Heads of Bureaus and independent offices approved buyouts with the concurrence of the Director of Personnel. Once approved, an application was irrevocable absent exceptional circumstances.

If disapproved by the approving official, a statement of the reason for disapproval was provided to the employee. An appeal channel was also established.

An additional limited buyout was established late last month. Eligibility was limited to Civil Service employees who received notices of reassignment and/or change to lower grade as a result of the restructuring. Four additional employees were approved for buyout.

A third buyout window was established for all Bureau of Broadcasting employees from August 22 to September 16, 1994 to minimize the impact of involuntary reductions in FY 95 as a result of Broadcasting consolidation. Forty employees were approved for buyout during this window.

The total impact of the FY 95 changes has not been completely addressed by our efforts thus far. We face additional cuts related principally to Broadcasting Bureau consolidation. We will reopen buyout opportunities before expiration of the legislation on March 31, but it is likely that some involuntary separations will occur. We also must confront projected staffing reductions in FY 96.

Response to Written Questions Submitted by Hon. Eleanor Holmes Norton to the U.S. Information Agency

Question 1. Has your agency submitted a final streamlining plan to OMB for your agency? If not, why not? Based on such plans, what, if any, significant changes does your agency contemplate in its workforce? Do you anticipate that buyouts will enable your agency to avoid the need for RIFs to achieve required reduction? If not, how many RIFs will be necessary.

Answer. The Agency has submitted a final streamlining plan to OMB. In addition to reductions in senior-level, supervisory and support positions, the Agency anticipates major reductions as a result of Broadcast consolidation. Buyouts will continue to minimize RIF impact, however, the Bureau of Broadcasting reductions will still cause the RIF of approximately 100 employees.

Question 2. How were your buyouts in FY 1994 targeted? How are you targeting your FY 1995 buyouts?

Answer. During FY 1994, 258 employees received buyouts. Each buyout application was evaluated in terms of direct advantage to the Agency, e.g. reduction in grade of the vacated position through reorganization, elimination of a supervisory position, creation of a vacant position for a retrained employee dislocated by the restructuring, or abolishment of the position. Applications which did not meet one of these criteria were denied.

USIA plans to target its FY 1995 buyouts in a similar manner.

Question 3. Has your agency made any request of OMB to have itself exempted from the personnel ceilings mandated in the Workforce Restructuring Act? If so, why? If so, has the request been granted?

Answer. No, USIA has not made a request to OMB for exemption from the personnel ceilings mandated in the Workforce Restructuring Act. The Agency already had in place negotiated procedures with respect to contracting out. No additional procedures are required to comply with the Workforce Restructuring Act.

Question 4. What effect have buyouts and downsizing had on the percentage of women and minorities at your agency?

Answer. We have not completed downsizing efforts at this time, and therefore, cannot determine the ultimate impact on the percentage of women and minorities in our workforce. However, a lower percentage of women and minorities took buyouts than are currently represented in the workforce.

Question 5. What kind of effort did your agency make in advance surveying of employee interest in buyouts, consultation with employees and their union representatives about your plans for utilizing buyouts, and counseling employees about their buyout options?

Answer. USIA did not formally survey employee interest in advance, choosing to rely instead on the take rates of other agencies including the GAO. Our buyout plan was discussed with and endorsed by the Agency's partnership council. USIA provided intensive counseling for interested employees. An open town meeting was held in April 1994 to discuss and clarify the procedures for all interested Agency employees. Buyout Q & A's were circulated extensively, and a buyout hotline was established. In addition, to assist employees in considering voluntary departure, the Agency contracted for professional counseling and intensive outplacement assistance. An outplacement center was also established.

Question 6. To the extent you have received employee criticism of your agency's buyouts, what were the nature of the criticisms? Has your agency structured its buyouts for FY 1995 to address such concerns? Why or why not?

Answer. Our unions have been very supportive of the Agency's buyout program; they recognize it was largely responsible for our ability to implement a major restructuring and downsizing in FY 1994 without RIF separations.

Question 7. What was your agency's supervisor-to-employee ratio before the FY 1994 buyouts? After these buyouts? What is the ratio anticipated after FY 1995 buyouts?

Answer. While overall, the supervisory ratio improved only slightly from the base of 1:4.5, in the organizations affected by restructuring, the ratio doubled to 1:8.4. The Bureau of Broadcasting will accomplish its reductions early in FY 1995 and expects to achieve a domestic workforce ratio of 1:5.7 by the end of the fiscal year.

Question 8. Are there any specific provisions of the Act which you feel have hampered your ability to use buyout authority (such as the back-fill limitation or the 9% payment for early retirees)?

Answer. In general, USIA has been very pleased with the buyout authority. Without it, our heavy losses would have been forced rather than voluntary.

Ms. NORTON. Is it two of the four of you who contemplate no more buyouts?

Mr. LANDERS. None at GSA.

General ARMSTRONG. None at NASA.

Ms. SUTTENFIELD. No further buyouts at the Smithsonian.

Mr. STEPHENS. We will have a buyout.

Ms. NORTON. Three of the four of you.

How were you able to achieve your goals so fast? Mr. Landers.

Mr. LANDERS. I don't know that——

Ms. NORTON. And how are you so sure that in 1999 it will all be over with what you have done in 1994?

Mr. LANDERS. Well, I suppose there is nothing absolutely certain at any time in our future, but based on the 1999 numbers that we have today from OMB, assuming that those numbers stay put, and I think we have reasonable assurance that that will be the case, then we are either at or within striking distance of the—or will be in January of 1995 when the people who take the buyout have departed, we will be at our 1999 number.

Ms. NORTON. When I say—I am asking how it happened. Did attrition work more for you? Did the freeze do it?

Mr. LANDERS. Let's see. The buyout was 2,400-plus. I don't have the—I don't have the freeze number. I think it is in the range of 1,800. So it is a pretty good mix. Slightly heavier on the buyout.

I can get those precise numbers for you if you would like.

[The information referred to follows:]

The number of GSA employees who left the agency through normal attrition (not associated with the buyout) from October 1, 1993 through January 31, 1995 is estimated to be 1,340. Actual attrition during fiscal year 1994 was 1,290.

Ms. NORTON. Yes. Because of course before the buyouts, I suppose shortly after the administration came in, there was a freeze, was there not, some sort of freeze on how you could hire in the first place?

Mr. LANDERS. In our case, yes.

Ms. NORTON. And this gave you a headstart perhaps toward meeting your goal?

Mr. LANDERS. Oh, yes, of course. Right.

Ms. NORTON. Mr. Armstrong.

General ARMSTRONG. Well, in NASA's case, our fiscal problem started prior to the Governmentwide initiative for the buyout. In fact, we fashioned a NASA-only buyout which we thought, up until the 5th of August last year, had a chance of being passed. So our buyout was targeted to reduce the numbers of FTE so that we could meet the budget levels that we had.

We needed to achieve 825 buyouts in order to hit the end strength at the end of 1994. When we received, much to our surprise, over 2,000 applications, we elected to take more buyouts than we initially planned because we weren't restricted by the dollars available in the Governmentwide buyout, so we took an additional 400.

NASA's plan for downsizing has been to reduce 400 FTE's per year throughout the rest of the 5 years on a 13 percent glide slope. By taking an additional 400, what we actually did was, instead of trying to hit the start of 1995, we actually hit the end of 1995 and took one whole year. Therefore, that sent the clear signal that we did not need to use the buyout again before it expired in March to achieve those decreases. So that is the degree of certainty that we have; in fact, that we will not need it this next year.

Ms. NORTON. Ms. Suttenfield.

Ms. SUTTENFIELD. I should clarify that even though we have met our downsizing target of 229 employees, which is the target through the end of fiscal year 1995, we know from our targets from OMB that we will be required to come down by an additional 300 employees between 1995 and the end of 1999.

While we do not intend to offer the buyouts again next year, and we have no immediate plans for reductions in force, clearly we have to continue with our restructuring efforts over the next several years. We expect to be able to meet our targets through attrition and through our own strategic planning processes. That isn't to say, however, that as we undertake restructuring that we may be identifying some functions which would have to be downsized or abolished and in due course then we might be abolishing some positions; but we will have to see how that plays out. For now, we have no plans to offer further buyouts.

Ms. NORTON. Rather than ask you the same questions I asked the agencies that came before, I am going to submit our questions to you for the record, with the addition of questions concerning your budget and the service contracts, the amount of service contracts also found in your budget.

Thank you very much for this very important testimony.

Could I have the union panel: Ms. Kitty Peddicord for the AFGE; Ms. Maureen Gilman for the National Treasury, NTEU; Mr. Josh Bowers for the National Federation of Federal employees; Mr. Chris Sullivan for the National Association of Government Employees; and Mr. Paul Almeida for the International Federation of Professional and Technical Engineers.

STATEMENTS OF KITTY PEDDICORD, DIRECTOR, WOMEN'S AND FAIR PRACTICES DEPARTMENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES; MAUREEN GILMAN, LEGISLATIVE DIRECTOR, ACCOMPANIED BY ROBERT M. TOBIAS, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION; JOSH BOWERS, STAFF COUNSEL, ACCOMPANIED BY JEFFREY SUMBERG, DEPUTY GENERAL COUNSEL, NATIONAL FEDERATION OF FEDERAL EMPLOYEES; CHRIS SULLIVAN, LEGISLATIVE DIRECTOR, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES; AND PAUL E. ALMEIDA, INTERNATIONAL PRESIDENT, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS

Ms. NORTON. You may proceed.

Ms. PEDDICORD. Madam Chairman, I am Kitty Peddicord, Women's and Fair Practices Director of the American Federation of Government Employees.

Ms. NORTON. Could I ask that each of you summarize your testimonies, given the hour; and I will admit, with pleasure, your full testimony into the record.

Ms. PEDDICORD. Thank you, Madam Chairwoman.

On behalf of the 700,000 Federal employees represented by AFGE, I appreciate the opportunity to appear before this panel today to discuss both the Federal Government's employee buyout program, as well as legislation that the Chairwoman has introduced to prevent agencies from abusing the buyout program by replacing bought-out Federal employees with service contractor employees.

As you know, Madam Chairwoman, AFGE strongly supported the buyout program. Allowing the Government to use separation initiatives to induce Federal employees, particularly those in management, to leave their jobs voluntarily in order to avoid the imposition of outright reductions in force was clearly the right thing to do.

However, let me say that AFGE continues to have concerns about the buyout program's emphasis on savings at the expense of performance. While some would contend that the Governmentwide FTE downsizing target established in the Federal Workforce Restructuring Act was not wholly arbitrary, we think all would agree that it was not a result of rigorous analysis; that is to say, prior to the establishment of the FTE downsizing requirement, no attempts were made to determine, on the one hand, what types of services the government should provide to the public, and on the other hand, what types of employees and how many employees are needed to provide those services in an efficient and effective manner.

The Government's downsizing in the dark has had two serious consequences: First, FTE reductions are forcing many short-staffed agencies to use contractors to perform required services, even though it has been proven that it would be less expensive to do the work in house.

Let me take a few moments to discuss the public/profit comparison process required by OMB Circular A–76. Even when that process proves that it would be more efficient to render the service inhouse, the Government often still insists that it be contracted out, cost savings be damned. As OMB reported earlier this year, several agencies, including USDA, HHS, HUD, State, Education, and Treasury, as well as EPA, admitted that they could have saved several million dollars by performing the functions directly rather than having them performed by contractors, but did not do so because either their request to OMB to take on the necessary FTE's was refused or the agencies were so sure such requests would be refused that they were not even submitted.

Second, reinvention plans are being disrupted. Despite being presented with often arbitrary FTE downsizing targets, several agencies are attempting to implement significant reforms simultaneously with their work force reductions. Some of these ambitious efforts to improve delivery of service will last as long as 5 years. It is common sense that an agency should retain flexibility with respect to its personnel needs until the completion of its restructuring. At the same time, some agencies need to maintain personnel flexibility in order to adapt to new laws and regulations. Consequently, we suggest that the buyout authority scheduled to expire next March be extended for 2 more years for all agencies.

Please understand that we are not suggesting that Congress revisit the Governmentwide FTE downsizing target. We are simply suggesting that agencies be given more time to offer buyouts in order to accommodate their restructuring efforts. In fact, Congress might condition the provision of extended buyout authority, giving it only to those agencies that demonstrate a firm commitment to reinvention. Such a scheme would ensure that buyouts would lead to gains in productivity, as well as increases in savings.

I will now discuss the legislation, H.R. 4488. It highlights the loopholes in the Federal Workforce Restructuring Act and does much to tighten them. However, a few significant loopholes in the act would still be left unaddressed even if amended by this important legislation.

The first significant loophole in this provision requires the President to take appropriate action to ensure that there is no increase in the procurement of service contracts by reason of the enactment of this act except in cases in which a cost comparison demonstrates such contracts would be to the financial advantage of the Federal Government.

What exactly is "appropriate action"? The act does not define this highly ambiguous term. If the President fails to take "appropriate action", how can this be challenged? What penalty is imposed if the President is found to have failed to take appropriate action? Would the cost comparison exception apply in the case of an agency that can only perform a function by using a service contractor because its FTE authorization is insufficient for in-house performance? In other words, if an FTE ceiling allocated to an agency resulted in such a reduction in the total number of employees that a function could no longer be performed in-house, how could a valid comparison be conducted and would it be permissible to contract out since that would be the only way to perform the function?

As it is now written, H.R. 4488 would not prevent agencies from replacing bought-out Federal employees with temporary and part-time employees. Consequently, we suggest that the bill's prohibition on the use of service contractor employees be broadened to include part-time and temporary employees as well.

Finally, we have some concerns about the legislation's use of the term "duties and responsibilities." Senior agency management has been very creative in concealing efforts to replace bought-out Federal employees with service contract employees. In fact, it is very difficult to establish direct links between the duties and responsibilities performed by bought-out Federal employees and those duties and responsibilities performed by service contract employees hired to replace them.

Instead of "duties and responsibilities," Madam Chairwoman, we suggest that your legislation use the term "function" for the reasons described in our written statement.

Thank you again, Madam Chairwoman, on behalf of AFGE's membership for your effort to prevent abuses in the buyout program. We strongly support H.R. 4488, and we look forward to working with you to achieve its enactment.

That concludes my testimony, and I will be happy to answer any questions.

Ms. NORTON. Thank you very much.

[The prepared statement of Mr. Sturdivant follows:]

PREPARED STATEMENT OF JOHN N. STURDIVANT, PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

INTRODUCTION

Madam Chairman and Members of the Subcommittee, I am John N. Sturdivant, National President of the American Federation of Government Employees, AFL–CIO. On behalf of the 700,000 federal employees represented by AFGE, I appreciate the opportunity to appear before this panel today to discuss both the federal government's employee buy-out program as well as legislation that the Chairwoman has introduced to prevent agencies from abusing the buy-out program by replacing bought-out federal employees with service contractor employees.

Before proceeding any further, Madam Chairwoman, let me tell you how much AFGE's membership appreciates your leadership on issues relating to making the federal government more effective. More than a few Members of Congress have built entire careers out of thoughtless attacks on federal employees, perhaps taking their cues from President Clinton's two predecessors.

On the other hand, you, Madam Chairwoman, have always acted according to the principle that the federal government cannot be reinvented without the active participation of its workforce. Emphasizing cooperation instead of confrontation may not produce a lot of lurid headlines and simplistic sound-bites, but any effort to make the federal government more responsive to the American people is plainly doomed to failure if it does not take into account the opinions and concerns of its workforce. Thank you again for your unfailing willingness to give careful consideration to the views of federal employees.

EVALUATING THE BUY-OUT PROGRAM

As you know, Madam Chairwoman, AFGE strongly supported the buy-out program. Allowing the government to use separation incentives to induce federal employees, particularly those in management, to leave their jobs voluntarily in order to avoid the imposition of outright reductions-in-force (RIFs) was clearly the right thing to do.

However, let me say that I continue to have concerns about the buy-out program's emphasis on savings at the expense of performance. I know that you share my concerns, Madam Chairwoman, because you have addressed them yourself with great eloquence and insight on several occasions.

While some would contend that the government-wide Full-Time Equivalent (FTE) employee downsizing target established in the Federal Workforce Restructuring Act was not wholly arbitrary, I think all would agree that it was not the result of any rigorous analysis. That is to say, prior to the establishment of the FTE downsizing requirement, no attempt was made to determine, on the one hand, what types of services the federal government should provide to the public and, on the other hand, what types of employees and how many employees are needed to provide those services in an efficient and effective manner. As management experts are increasingly pointing out, firms in the private sector that have downsized prior to making informed decisions about the services to be provided and the size of the workforce necessary to provide those services have encountered significant difficulties. Peter Drucker, a highly-respected business guru, told *The Wall Street Journal* recently that "We are seeing way too many amputations before the diagnosis."

The federal government's own downsizing in the dark has had two serious consequences:

1. *FTE reductions are forcing many short-staffed agencies to use contractors to perform required services—even though it has been proven that it would be less expensive to do the work in-house.*

In elaborating on this point, I need to take a few moments to discuss the much-maligned, and justifiably so, public/profit comparison process required by OMB Circular A–76. Even when that process, tilted though it is in favor of contractors, proves that it would be more efficient to render a service in-house, the federal government often still insists that the service be contracted out—cost savings be damned!

As OMB reported earlier this year, several agencies—including the Departments of Agriculture, Health & Human Services, Housing & Urban Development, State, Education and Treasury, as well as the Environmental Protection Agency—admitted that they could have saved several million dollars by performing functions directly rather than having them performed by contractors, but did not do so because either their requests to OMB to take on the necessary FTEs were refused, or the agencies were so sure such requests would be refused that they were not even submitted.[1]

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[1] *Summary Report of Agencies' Service Contracting Practices,* OMB (January 1994), p. v. "Agencies often assume that additional government personnel will not be authorized and, therefore, there is no alternative but to contract for needed services. Several agencies requested that they be given more budget flexibility with respect to determining whether work should be performed by agency or contractor staff. Examples were reported, where the government (based on the agencies' projections) could save several millions of dollars by performing functions directly rather than having them performed by contract." In the report's Appendix 2, p. 30, OMB reported that it was the consensus of the agencies it surveyed that "OMB needs to review the cost effectiveness of bring contracted work in-house when there aren't sufficient Full Time Equivalents (FTE) to perform the work. More flexibility with the budget limitation of FTEs is necessary when it can be demonstrated through studies that it would be less expensive to perform the work in-house but government personnel ceilings prevent that decision."

Although appalling, this is a natural consequence of downsizing in the dark, and it is likely to grow worse as the workforce reductions increase. Instead of FTE controls, Congress should define the scope of an agency's mission. Only when it is understood what work an agency is to perform can the appropriate level of staffing be realistically determined. Clearly, agencies must be given much greater flexibility in using their budgetary resources so that funding for contracting out purposes can be used to hire additional FTEs in the event a public/profit comparison process indicates that it would be more effective and efficient to render a particular service in-house.

2. REINVENTION PLANS ARE BEING DISRUPTED. Despite being presented with often arbitrary FTE downsizing targets, agencies like the Department of Agriculture have attempted to implement significant reforms simultaneously with their workforce reductions. Some of these ambitious efforts to improve delivery of services will last as long as five years. It's common sense that an agency should retain flexibility with respect to its personnel needs until the completion of its restructuring. At the same time, some agencies need to maintain personnel flexibility in order to adapt to new laws and regulations. For example, many job cuts at the Department of Transportation are likely to come from procurement offices. The department's administrators have said publicly that they need to determine how the procurement reform law winding its way through Congress will work before actually making those cuts.

I suggest that the buy-out authority, scheduled to expire next March, be extended for two more years for all agencies. As you know, the FY 1995 Defense Authorization Act, which has passed both chambers of Congress and now awaits the President's signature, would extend buy-out authority for the Department of Defense (DoD) from September 30, 1997, to September 30, 1999.

Please understand that I am not suggesting that Congress revisit—let alone change—the government-wide FTE downsizing target. I am simply suggesting that agencies be given more time to offer buy-outs in order to accommodate their restructuring efforts. In fact, Congress might condition the provision of extended buy-out authority, giving it only to those agencies that demonstrate a firm commitment to reinvention. Such a scheme would ensure that buy-outs would lead to gains in productivity as well as increases in savings.

Last October, we pointed out in testimony before two House Post Office and Civil Service Subcommittees that the Federal Workforce Restructuring Act would leave senior agency managers with "sole authority to decide which groups of employees will be eligible for separation incentives, (ignoring the fact) that the perspective of workers is invaluable in identifying areas of the government where service can be improved despite job cuts, or at least where the smallest detrimental effects to policies and programs would result." As passed, the Act included no statutory requirement that agencies take into consideration the concerns of rank-and-file federal employees when determining eligibility for buy-outs. The record of the partnership councils on this matter has proven to be uneven.

However, the consequences of downsizing in the dark—the disruption of genuine reinvention efforts and cost-inefficient contracting out because of artificial FTE shortages—will never be addressed without the systematic involvement of rank-and-file federal employees in determining eligibility for buy-outs. With apologies to social scientists, political appointees, and even Members of Congress, the people who know best how personnel changes will affect a reinvention scheme and which employees should be retained in order to meet statutory service responsibilities are, of course, rank-and-file federal employees. Failure to use these valuable resources in determining eligibility for buy-outs is stupid and wasteful. Again, I urge Congress to amend the Workforce Restructuring Act to ensure that rank-and-file federal employees are systematically involved in determining eligibility for buy-outs through their representatives on the partnership councils.

There is broad agreement that several layers of middle management need to be eliminated if the federal government is to become a more effective and more efficient service provider. Clearly, federal employees on the front lines, those who deal directly with the public, will never be empowered to reduce administrative expenses and streamline service delivery without significant cutbacks in management. As President Clinton has said, the supervisory/non-supervisory ratio should be decreased from 1:7 to the prevailing private sector rate of 1:15 over the next several years.

OPM is still collecting data and is unable to provide information for the government as a whole with respect to what effect, if any, the buy-outs have had on the supervisory/non-supervisory ratio. Data collected by individual agencies does not yet show a clear picture. For example, at the National Aeronautics and Space Administration, there has been a slight improvement in the supervisory/non-supervisory ratio, although it is still far too high. At DoD, however, the average grade of a buyout recipient, as of last June, according to a recent issue of the *Federal Times*, was GS–9, suggesting that there will be little, if any, improvement in the supervisory/non-supervisory ratio in that department.

Clearly, one of the main objectives of downsizing is to improve the supervisory/non-supervisory ratio. In order to ensure that downsizing does not strip the federal government of its most valuable employees, i.e., those who actually deliver services to the public, it is imperative that agencies and organizations that represent rank-and-file federal employees have access to accurate, up-to-the-minute data on how the buy-out program is affecting the supervisory/non-supervisory ratio. I urge Congress to require OPM to collect this data regularly and make the results readily available. I am eager to see the final results of the comprehensive buy-out survey OPM is conducting. If it turns out that the buy-out program is not contributing to an improvement in the federal government's supervisory/non-supervisory ratio, it may be necessary for Congress to at least partially restrict eligibility for the buy-outs to management personnel.

I have one additional suggestion for increasing the attractiveness of the buy-out option to federal employees so as to obtain the need for costly and demoralizing RIFs. In April, after considerable lobbying by AFGE and other federal employee unions, OPM granted a waiver to employees taking buy-outs, allowing them to continue their health insurance into retirement even if they have not been enrolled in the Federal Employees Health Benefits Program (FEHBP) for a full five-year period prior to retirement. Together with cash incentives, the option of continued coverage under FEHBP gives federal employees considering the buy-out option an important measure of economic security as they look for new employment. As Republicans and Democrats alike have pointed out, one of the worst failures of the current health care system is that the fear of losing coverage ties workers to jobs they would otherwise leave. In the event buy-out authority under the present program is extended or additional buy-out programs are enacted, I urge Congress to explicitly include the waiver in any future legislation.

SERVICE CONTRACTING ABUSES

Before addressing the legislation, let me take a few moments to put into a broader context the service contractor abuses H.R. 4488 would address. That service contractors have managed to perpetrate significant abuses in virtually every federal agency into which they have been given entree, and that these significant abuses have resulted in massive cost overruns and shoddy work are not opinions but facts, established in report after report from the non-partisan General Accounting Office (GAO) as well as OMB.

The latest independent corroboration of the crisis in contracting came from a GAO report released earlier this year, entitled *GOVERNMENT CONTRACTORS: Measuring Costs of Service Contractors Versus Federal Employees.* This report surveyed nine different studies on service contracting and found that in each case savings, often substantial, could have been realized if the work had been done in-house.

When one remembers that OMB reported earlier this year that service contracting is the fastest growing area of federal procurement, now accounting for about $105 billion of the $200 billion spent each year for goods and services, the report's findings of significant waste in the relatively small number of contracts surveyed become downright terrifying.

Considering that the 2,100,000 employees who make up the entire federal workforce earned a combined $89 billion in salary last year, I can conservatively estimate that the $105 billion spent last year on thousands and thousands of labor-intensive service contracts means that the service contractor workforce consists of 2,000,000 employees.

I apologize for not being able to provide the Subcommittee with a precise figure, but then our friends at OMB cannot provide one either—and that's their job. And, absent the force of legislation like Madam Chairwoman's bill to require OPM to develop and implement a system for determining the number of persons employed under federal service contracts (H.R. 4487), the light of truth will never begin to shine on this shadow government.

REFORMING THE BUY-OUT PROGRAM

H.R. 4488 highlights the loopholes in the Federal Workforce Restructuring Act and does much to tighten them. However, four significant loopholes in the Act would still be left unaddressed even if amended by this important legislation. The first significant loophole I will discuss, the Act's limitation on service contracts, is itself made up of four different loopholes. This provision requires the President to "take appropriate action to ensure that there is no increase in the procurement of service contracts by reason of the enactment of this Act, except in cases in which a cost comparison demonstrates such contracts would be to the financial advantage of the Federal Government."

What exactly is "appropriate action"? The Act does not define this highly ambiguous term.

If the President fails to take "appropriate action", how can this dereliction be challenged?

What penalty is imposed if the President is found to have failed to take "appropriate action"?

Would the cost comparison exception apply in the case of an agency that can only perform a function by using a service contractor because its FTE authorization is insufficient for in-house performance? In other words, if an FTE ceiling allocated to an agency resulted in such a reduction in the total number of employees that a function could no longer be performed in-house, (a) how can a valid comparison be conducted, and (b) would it be permissible to contract out since that would be the only way to perform the function? As I mentioned previously, this is a serious problem. Even OMB has reported that many agencies have been so stripped of resources through the downsizing process that they are having to use service contractors to perform functions required by law, even though such functions could be performed at a lower cost in-house.

I will now discuss the second significant loophole in the buy-out law. Although the Act establishes ceilings on the total number of FTE positions for the next six years, no sub-ceilings are established for individual agencies. Consequently, while the government-wide ceiling is reduced by one position for each vacancy created by an employee who takes a buy-out—excluding the number of FTE positions in DoD, Central Intelligence Agency, and GAO—there is no requirement that there also be a reduction in the number of FTE positions allocated to the individual agency that authorized the buy-out.

The third significant loophole concerns temporary and part-time employees. H.R. 4488 would not prevent agencies from replacing bought-out federal employees with temporary and part-time employees. As you know, senior agency managers do not just replace bought-out federal employees with service contractor employees. Temporary and part-time employees are used as well. Consequently, I suggest that the bill's prohibition on the use of service contractor employees to replace bought-out federal employees be broadened to include part-time and temporary employees as well.

The fourth significant loophole is merely potential. Nevertheless, it could prevent this important legislation from preventing much service contracting abuse. H.R. 4488 would prohibit any person under a contract with the government to undertake the duties and responsibilities that were performed by an employee who accepted a buy-out. I have some concern about the legislation's use of the term duties and responsibilities. Senior agency management can be very creative in concealing efforts to replace bought-out federal employees with service contractor employees. In fact, it is very difficult to establish direct links between the duties and responsibilities performed by bought-out federal employees and those duties and responsibilities performed by service contractor employees hired to replace them.

For example, imagine an agency that has six FTE maintenance employees, one of whom has accepted a buy-out. That bought-out employee's duties and responsibilities consisted of maintaining the third floor in one of the agency's office buildings. Under your legislation, Madam Chairwoman, it appears to me that the agency could not contract out for the maintenance of the third floor. However, that agency could reassign one of the five remaining maintenance employees to the third floor, and then arrange for a service contractor to perform the duties and responsibilities formerly handled by the reassigned employee, and still not be in violation of the Act, even as amended by H.R. 4488.

Instead of duties and responsibilities, Madam Chairwoman, I suggest that your legislation use the term "function". It is much easier to establish direct links between the function performed by bought-out federal employees and service contractor employees brought in to replace them than it is to establish direct links between their duties and responsibilities. If H.R. 4488 provided that none of the functions performed by employees leaving the federal government under the buy-out program could be performed by service contractor employees, then, under our hypothetical, I think the agency would be prohibited from contracting out for any additional maintenance work.

CONCLUSION

This morning, I have spoken at great length about the consequences of downsizing in the dark. Before concluding my testimony, I would like to share with the Members of this Subcommittee a story which shows the sort of subterfuge to which senior agency managers will resort in order to make it appear that their agencies are operating under the FTE ceiling.

The FY 95 FTE ceiling at a certain Veterans Affairs (VA) medical center would require a RIF of forty employees. The facility's director understands that a staff so depleted would be unable to provide essential services. To his credit, the director has not yet proposed to offset the in-house staff shortage by hiring service contractor employees. While the facility could easily disguise the hiring of contractor employees—since they are inexplicably not counted towards the FTE ceiling—he knows full well that RIF-ing federal employees and replacing them with contractor employees would eliminate any cost savings and decrease the quality of service.

Instead, the director has come up with a novel approach. He would insist that many of the facility's employees be put on "non-pay" status for one day in each pay period. In effect, much of the workforce would be converted into part-time employees. Implementation of this proposal would "reduce" the number of FTE employees by 20%, or forty employees, thus allowing the facility to faithlessly achieve its downsizing target. Those employees suddenly changed to part-time status would be given an opportunity to work overtime so they would not experience a drop in take-home pay. Nonetheless, their level of compensation would be diminished. Affected employees would suffer reductions in retirement contributions, leave accruals, service computation dates, and life insurance amounts because their base pay would go down. We contend that this scheme cannot be mandatorily imposed because it is nothing more than a conversion of existing full-time positions to part-time positions and such a conversion affecting current employees is forbidden under the law.

If the affected employees challenge this proposal, it is likely they will be RIF-ed and the agency will then attempt to hire contractor employees in order to fulfill their service responsibilities. If contracting is disallowed, then the facility may close and the remaining employees will lose their positions.

Madam Chairwoman, as I said earlier, FTE ceilings must reflect accurate staffing needs as determined by in-depth analyses of the work to be done. If current staffing exceeds the appropriate amount, then reductions in the workforce may be called for; and, in that event, buy-outs would be appropriate. But when FTE ceilings are established without regard to an agency's actual service responsibilities, we should not be surprised that managers contract out to make up for in-house staff shortages—even if they know such decisions to be cost-ineffective—or resort to unlawful yet inventive schemes like the one I just mentioned. Clearly agencies must be given greater flexibility in using their budgetary resources so that funding for contracting out purposes can be used to retain the existing in-house workforce or hire additional FTE employees in the event that it would be more effective and efficient to render a particular service in-house.

You know, Madam Chairwoman, it takes a prodigious intellect to come up with a scheme like the one I just discussed. I can only imagine what sort of money-saving, service-improving reinvention plans that fellow might devise if he didn't have to spend all of his time thinking up new ways to secretly break through his facility's FTE ceiling.

Thank you again, Madam Chairwoman, on behalf of AFGE's membership, for your effort to prevent abuses in the buy-out program. We strongly support H.R. 4488 and we look forward to working with you to achieve its enactment.

That concludes my testimony. I would be happy to answer any questions.

Response to Written Questions Submitted by Hon. Eleanor Holmes Norton to The American Federation of Government Employees

Question 1. What level of involvement in agency buy-out plans did your union have?

Answer. AFGE's involvement in agency buy-out plans has been minimal. Our main concern with respect to buy-outs is ensuring that they are targeted at the appropriate parts of the workforce. There is broad agreement that several layers of middle management need to be eliminated if the federal Government is to become a more effective and more efficient service provider. Federal employees on the front lines, those who deal directly with the public, will never be empowered to reduce administrative expenses and streamline service delivery without significant cutbacks in management. As President Clinton has said, the supervisor/non-supervisor ratio should be decreased from 1:7 to the prevailing private sector rate of 1:15 over the next several years. Since buy-outs were first offered, the Office of Personnel Management (OPM) has failed to provide Congress and representatives of federal employees with accurate information as to what effect, if any, the buy-outs have had on the supervisor/non-supervisor ratio. Such information is necessary to prevent down-sizing from stripping the federal government of its most valuable employees, i.e., those who actually deliver services to the public. Therefore, AFGE urges Congress to require OPM to monitor this issue more closely during Fiscal Year 1995.

Question 2. To the extent you have received employee criticism of agencies' buy-outs, what was the nature of the criticism?

Answer. Most of the criticism we have received from our membership about the federal government's use of buy-outs has centered on attempts by various agencies to back out of agreements they had made with employee representatives to offer buy-outs. A member in one of our locals at the Department of Housing and Urban Development (HUD) reported that the agency had significantly reduced the number of buy-outs to be offered as well as the time to consider taking advantage of such separation incentive payments, ostensibly at the behest of OPM or the Office of Management and Budget (OMB). However, both agencies denied ordering HUD to abrogate the agreement.

And, as you know, having referred the case to us yourself, AFGE Local #2782 alleges that the Census Bureau has reneged on an agreement to offer buy-outs in Fiscal Year '95. Our AFGE staff in District #14 is currently investigating this allegation.

An agency that backs out of an agreement to offer buy-outs does more than hurt feelings. Employees make major life-changing decisions based on management's buy-out announcements. In both cases mentioned in this letter, it is likely that the agency simply miscalculated how many buy-outs it would be allowed to offer by OPM. Therefore, AFGE suggests that Congress require agencies to coordinate their actions more closely with OPM and OMB in order to ensure that the agreements agencies make to offer buy-outs are ones that can be kept.

Another criticism concerns the delay that occurs between the time it is decided that reductions-in-force (RIFs) are to be made and the time when that decision is to be announced to the affected employees. This delay occurs because of the requirement that Members of Congress who represent potentially RIF-ed employees be informed first. During this notification process, agencies frequently resort to a suspicious silence or disconcerting euphemisms, like "I wouldn't buy a house in this area if were you." Needless to say, both approaches tend to cause greater anxieties than if an agency simply told employees that RIFs were imminent and that all concerned should plan accordingly. In addition, the earlier such information is shared, the sooner employees can make informed decisions about such important things as whether to take buy-outs. While sympathetic to the need to keep Members of Congress fully-informed about RIFs in the areas they represent, AFGE urges Congress and agencies to accelerate this process so that those most directly affected by RIFs can more quickly begin the difficult process of re-building their lives.

While an isolated case, the way in which buy-outs were handled by the Interstate Commerce Commission (ICC) is so egregious that it deserves special attention. As a result of drastically-reduced funding in the Department of Transportation and Related Agencies Appropriations Bill for Fiscal Year '95 (H.R. 4456, P.L. 103–331), the positions of almost one-third of ICC's workforce were eliminated in what may well be the first Congressionally-mandated RIFs targeted at a specific agency. Complicating matters significantly was ICC's staunch refusal to offer buy-outs. As a result of prompt legal action at the AFGE district level and the threat of legislative recourse at the national level, the agency's management finally caved in, offering priority placement and out-placement services as well as buy-outs. Ultimately, only slightly more than 50 employees were involuntarily separated. If ever there were a time when an agency should have used buy-outs to reduce the number of costly and demoralizing RIFs brought about by a sudden and draconian down-sizing, this was it. I am still baffled by ICC's refusal to offer buy-outs until forced to do so by the representatives of its workforce. In the event other agencies are threatened with massive down-sizing in the next Congress, AFGE will monitor the situation closely to determine if management is making full use of its buy-out authority. Needless to say, we will keep you and your staff fully informed about such situations.

Finally, AFGE remains concerned about attempts by agencies to replace bought-out federal employees with contractor employees. We appreciate your efforts to deal with this problem with H.R. 4488, which would have expressly forbidden such actions.

Ms. NORTON. Ms. Gilman.

Ms. GILMAN. Thank you, Madam Chair. I am Maureen Gilman, legislative director for the National Treasury Employees Union. Due to the lateness of the hour, I will very briefly make a couple of points and submit the rest of my statement for the record.

Ms. NORTON. I would appreciate everyone doing that. I have got to be someplace shortly.

Ms. GILMAN. OK. NTE strongly supports H.R. 4488, which would amend the Federal Workforce Restructuring Act to provide a prohibition against contracting out work that had been previously performed by employees whose jobs have been eliminated through the use of buyouts. As has been pointed out here earlier, we think that there are—that your bill would solve a major problem that has been created through the legislation that sets FTE ceilings without setting a corresponding balance, so that work is not just contracted out a wholesale basis.

The fact that service contracts are not subject to A–76, the OMB Circular A–76, is a major problem as well. We would like to see that applied to service contracts as it is now applied to commercial contracts.

Just one thing that I would like to quote briefly. Several of the panelists from the administration quoted the National Performance Review, and what was supposed to be the object of the legislation aimed at downsizing. And just to correct the record, I have got the National Performance Review here. And FTE ceilings was exactly the opposite of what was proposed by Vice President Gore in the National Performance Review.

As a matter of fact, the action that he promoted states, from the NPR report at page 19: "OMB and agencies will stop using full-time equivalent ceilings, managing and budgeting instead with ceilings on operating costs to control spending."

This section goes on to state that as we redesign the Government for greater accountability, we need to use budgets rather than FTE controls to drive our downsizing. FTE's are frequently arbitrary, rarely account for changing circumstances, and are normally imposed as across-the-board percentage cuts in FTE's for all of an agency's units, regardless of changing circumstances. Consequently, they must contract out work that could be done better and cheaper in-house when they are managing to FTE's.

We think the fact the FTE caps were included in the buyout legislation is a problem. There needs to be a balance so that when agencies bump up against their caps, they are not just free to send the work outside. And I think your legislation addresses that, and we support it strongly.

Thank you.

Ms. NORTON. Thank you very much.

[The prepared statement of Mr. Tobias follows:]

PREPARED STATEMENT OF ROBERT M. TOBIAS, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

Madam Chairwoman and Members of the Subcommittee, I am Robert Tobias, National President of the National Treasury Employees Union (NTEU). On behalf of the over 150,000 federal workers represented by NTEU, I appreciate your invitation to appear before your Subcommittee today on H.R. 4488, important legislation addressing contracting out and its impact on agencies' reinvention efforts.

This hearing is timely. At the same time that agencies are being asked to downsize, the number of contractors doing business within the government and their costs are rising. In January, the Office of Management and Budget (OMB) issued its "Summary Report of Agencies' Service Contracting Practices." OMB found that service contracts are the "fastest growing area of government procurement," accounting for $105 billion of the government's $200 billion FY 1992 procurement program." Moreover, from fiscal year 1989 to fiscal year 1992, the number of contractors doing business within the government rose from 62,819 to 82,472. This is especially alarming when one considers that contracts may be initially awarded without any cost/budget analysis. OMB in its report found that cost analyses and independent government cost estimates are not performed by many agencies prior to the renewal, extension, or even re-competition of existing contracts.

I commend you, Madam Chairwoman, for introducing and holding this hearing on H.R. 4488. NTEU strongly supports this legislation which seeks to amend the Federal Workforce Restructuring Act of 1994 and provide a blanket prohibition against contracting out work that had previously been performed by employees whose jobs have been eliminated through the use of buy outs. As signed into law, the Federal Workforce Restructuring Act had insisted only that an agency perform a cost comparison before contracting out the work. Your bill is a much more preferable solution.

As you know, the performance of commercial government activities by outside contractors is subject to OMB Circular A–76. This Circular requires a cost comparison of performing work in-house by government employees versus performing work by private contractors. A supplement to the Circular includes a Cost Comparison Handbook which provides a methodology for computing cost comparisons, including required documentation from the government on the contract price, contract administration and income tax deductions for contracting outside the government.

In contrast, service contracts are not subject to Circular A–76 cost analyses. This is appalling when one considers that the government spends over 105 billion dollars in service contracts annually. Although OMB Policy Letter No. 93–1 provides guidance on managing and controlling the use of service contracts, it lacks any requirement for agencies to develop a cost comparison between in-house work and the use of outside contractors.

The General Accounting Office in its recent report, "Measuring Costs of Advisory and Assistance Service Contractors vs. Federal Employers" found the government could have saved millions of dollars by performing functions directly rather than having these functions preformed by contractors. The GAO in its report surveyed nine previous studies comparing the cost of using contractors rather than federal employees to perform consulting services. The findings were alarming. An audit of The Department of Energy's support service contracts revealed that direct government performance of these contracts would have resulted in savings of 26 to 53 percent. An audit of Air Force Service Contracts found that the Air Force could have saved up to $6.2 million if contractor work was performed in-house in 1990.

It is simply unconscionable for the government to be wasting this money. This is more troubling when it becomes apparent that if service contracts were subject to the cost analyses in Circular A–76, this money would not have been wasted. The GAO, in its report, recognized this point and specifically recommended that OMB extend the A–76 cost comparison requirement to advisory and assistance services.

However, subjecting service contracts to Circular A–76 will not address a major shortcoming in the contracting process. OMB noted in its report that some agencies reported that even when they are able to demonstrate through studies that it would be less expensive to perform the work in-house rather than contract it out, they are not authorized to hire additional government personnel. Apparently, although there is no room in their personnel budgets, there is plenty of room in procurement budgets to accomplish the work. It is ironic that ever tighter restrictions on hiring federal workers are leading to what has been shown to be more expensive contracting out of these services. As the government attempts to reinvent itself through downsizing, it will become even more imperative that contracting out of government functions be used only when truly shown to be more cost effective. Without service contract reform, downsizing is likely to lead to an increase, not a decrease in federal spending.

In the same vein, as agencies attempt to downsize and offer employees incentives to leave federal service, they should not be allowed to then contract out the work of the former employee. Under this scenario, reinvention is limited to a ledger paper change—the procurement column having a far larger debit and the FTE column indicating a decrease in government employees. H.R. 4488 would ensure that the work of employees who received but-outs to leave the federal government would not be contracted out. If there is to be any true reinvention of the federal government through downsizing, this legislation is a necessity.

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In conclusion, Madam Chairwoman, NTEU views H.R. 4488 as a vitally important step toward a more fiscally responsible government. The end result of the ongoing downsizing cannot be the expansion of the shadow government that has built up around our federal agencies. Agencies cannot hide behind staff buyouts all the while increasing their level of service contracting.

Thank you again for your continued leadership on this issue of vital importance to federal employees. I would be happy to answer any questions.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ELEANOR HOLMES NORTON TO THE NATIONAL TREASURY EMPLOYEES UNION

Question 1. What level of involvement in agency buyout plans did your union have?

Answer. NTEU has had limited involvement in agency buyout plans during the past fiscal year. The Union was given statutory required notice of proposed plans by those agencies offering buyouts, and did participate in some informational briefings related to their execution. While NTEU would have welcomed a more active role in the determination process, our concerns and suggestions were shared with and were sometimes considered by some agencies.

Question 2. To the extent you have received employee criticism of agencies' buyouts, what was the nature of the criticism?

Answer. The key employee criticisms of agencies' buyouts heard by NTEU include:

(i) The very brief window often granted for employees to respond—sometimes 1 week to make a decision and be off the Agency payroll.

(ii) Concerns that buyout options were only being offered to higher graded employees.

(iii) Concerns about agencies back-filling positions.

(iv) Concerns about bought-out employees subsequently returning to some agencies as contract employees.

NTEU is unaware of any specific changes or restructuring of buyouts undertaken by agencies to address such concerns for fiscal year 1995. With the beginning of a new fiscal year, however, sufficient time remains to appropriately plan for such concerns.

Ms. NORTON. Is this Mr. Bowers?

Mr. BOWERS. Yes, thank you. I, too, will submit the testimony for the record and just make a couple of comments.

I am a staff attorney with the union. I have done extensive litigation in the contracting out area. And we are gravely concerned with the contracting out problem. It has been a terrible curse upon the workers we represent.

Your statute or this proposal, this bill, presents an opportunity we don't have now. Currently, if an agency contracts out, under the A–76 procedure, we are limited to the in-house review. We file an appeal in the A–76 process and it goes up in the same agency and someone else can rubber stamp it.

Your bill allows us to go to a Federal arbitrator, a neutral third party, and to look at the agency action, something denied Federal employees at this time. And we would applaud this bill and welcome the opportunity to go back to arbitrators, where we once had that opportunity.

And I will echo what has been said before, that Federal employees are hesitant in the area of reinvention. They are scared. There is a lot of concern. Is this actually an opportunity to improve their jobs or is it an opportunity to eliminate it?

If they contract out the jobs, people that have been bought out, that discredits the entire process. My understanding of the literature in this area is you must bring an employee in, they must feel like they are part of the process. If you divorce them from the process, then they have no vested interest in performing.

To date, I have not received reports that our people have been brought in to discuss the buyout strategies, the whole reinvention process. Where there are partnership councils being created, somehow those councils were created after the strategies were developed. I would urge Congress to somehow force the agencies to actually talk to the people that are supposed to be part of the partnerships before they go out and reinvent a government. If you don't bring the people in initially, they have no investment in it. If we are going to have the cost effectiveness and efficiencies that the private sector has achieved, the Federal employees must be brought in.

If they reinvent the Government, they have an interest in the way it performs. If they get brought in on the caboose, then they are just tourists to the process. They will show up, they will do their time and they will leave.

Don't alienate Federal employees. Bring them in, make the partnerships real. We applaud your bill. We welcome it. And we will—thank you very much.

Ms. NORTON. Thank you very much, Mr. Bowers.

[The prepared statement of Mr. Sumberg follows:]

PREPARED STATEMENT OF JEFFREY SUMBERG, DEPUTY GENERAL COUNSEL, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Good Morning Madam Chair and Members of the Subcommittee: My name is Jeffrey Sumberg and I am Deputy General Counsel of the National Federation of Federal Employees. On behalf of the National Federation of Federal Employees, which represents over 150,000 federal employees in 53 agencies throughout the government, I am pleased to be here to offer our comments on HR 4488 and the implementation of the Federal Workforce Restructuring Act.

However, before I begin, Madam Chair, I would like to thank you for all the hard work and leadership you displayed in the struggle to not only pass the buyout legislation but also in attempting to ensure that the buyouts were implemented in a sensible and fair fashion.

I. H.R. 4488

Madam Chair, NFFE wholeheartedly supports the provisions of HR 4488 and believes that it substantially improves the Federal Workforce Restructuring Act. By explicitly prohibiting federal agencies from contracting out the work previously performed by a buyout recipient, the provisions of HR 4488 close a potentially dangerous loophole in the Federal Workforce Restructuring Act. NFFE contends that if the federal government were to provide its employees with separation incentives and then turn around and hire a contractor to perform all or part of those employees' jobs, then the government would be guilty of defrauding the American taxpayer through the practice of double-billing.

In fact, far from increasing the level of contracting-out, NFFE asserts that at a time when the structure and the size of the federal workforce is being reformed, a similar reform effort should be aimed at federal contracting out practices.

Currently, the federal government spends $105 billion each year on contracting-out, which has become the fastest-growing area of federal procurement. As you have correctly stated in the past, Madam Chair, federal contractors have formed a shadow government. Unfortunately, many of this shadows government's members are not performing effectively. A recent Office of Management and Budget study of federal contracting-out found instances of poor performance; contractors performing governmental work such as program management; incomplete cost and price analyses and statements of the work to be done; and weak oversight of contractor performance.

Furthermore, we support HR 4488 because it extends beyond simply preventing an increase of contracting out. HR 4488 will also have a direct impact on the success of Vice-President Gore's National Performance Review and on the morale of the federal workforce. A little over one year ago, federal employees welcomed the portion of the NPR report in which Vice President Gore declared that "federal employees are good people trapped in a bad system". For once, it was the system that was being blamed and not federal employees. On this basis, federal employees embraced many portions of the NPR and look forward to the systemic reforms that would allow them to truly create a government that "works better and cost less."

But if employees who have supported the NPR see that they and their coworkers are losing their jobs and being replaced by contractors, then the NPR's declaration of fixing the system and not blaming its people will be meaningless and the NPR will be remembered as just another attempt to portray federal employees as the problem. It is important to remember that federal employees support much of the NPR because they are interested in making their agencies work better. However, they do not want to see their work transferred to contractors and have their jobs "reinvented" out of existence.

II. BUYOUT PROGRAM

Unfortunately, NFFE's concerns with the current buyout program are not limited to the potential for contracting out work previously performed by buyout recipients. Indeed, NFFE's concern with the buyout program encompasses a much larger problem. NFFE contends that the buyout process has become focused on the *number* of positions cut instead of being focused on the type of position to be cut or even if there is a need to cut at all. Additionally, NFFE maintains that little or no regard is being given to what the composition of the federal workforce will be at the end of the process. To put it bluntly, Madam Chair, NFFE is concerned that at the end of the downsizing process, the federal government will be left with a hollow workforce.

It is this overriding focus on the numbers of employees and the monetary savings accompanying their departure that concerns NFFE. The stated downsizing goal of the NPR is a 12 percent reduction in the federal workforce. Unfortunately, there will certainly not be a corresponding reduction in the responsibilities of the remaining employees. Indeed, it is anticipated that their workload will be substantially increased. NFFE contends that unless careful planning goes into the downsizing and reinventing government efforts, the NPR effort will stall and the government will be left with a smaller workforce unable to manage the ever increasing workload of the federal government. In fact, in its report on the NPR initiative, the Brookings institution found that:

"The NPR staff trumpeted 'doing more with less.' Government workers, however, believe that they had already been stretched to the limit by a decade of budget cuts; struggling to do their jobs with even less could only mean *doing less with less.* The focus on using NPR to produce cost savings, risked both undercutting the government's capacity to do its work and bureaucrat's incentives for taking the considerable risks that the NPR demanded. Indeed some government employees began calling the reinvention movement 'reinvent-sham.'" [1]

This is not to say that NFFE does not support the buyout program, we do. NFFE believes that the Clinton Administration should be commended for its desire to use buyouts as an effective tool to downsize the federal ranks. NFFE believes that buyouts are integral to the government's rightsizing strategy. Voluntary attrition rates among federal employees are the lowest they have been in years. Without such incentives, reductions-in-force and layoffs would be inevitable. These actions would be highly disruptive of federal operations, demoralizing to morale, and counter-productive to creating a diverse workforce. Moreover, RIFs are most costly to the government than the use of attractively-priced buyouts.

Thus, NFFE is very concerned that the downsizing or restructuring of the Federal government is not being conducted in a sensible, strategic fashion. It appears that the overriding goal of the restructuring effort is to reduce the number of employees with little concern for the remaining workforce. Again, the Brookings Institution report found that:

"The [downsizing] targets quickly became the political acid test of the NPR. Strategic planning initially was to drive the cuts, but the head count game quickly replaced the planning. The downsizing target became the administration's most politically visible target, and hence its most vulnerable. By committing itself to an arbitrary reduction, the NPR eliminated any chance that a serious look at the composition of the workforce and the skill mix of government would drive the reductions. The downsizing [targets] became the political pass/fail test for the NPR." [2]

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[1] "Reinventing Government? Appraising the National Performance Review," A Report of the Brookings Institution's Center for Public Management, Donald F. Kettl, August 19, 1994.

[2] *Id.*

NFFE feels that the specter of a hollow workforce can be avoided if the federal agencies would:

• Work through partnership to develop detailed and coherent downsizing plans that will ensure that the workforce remaining after the reductions will have a sufficient number of employees with the appropriate skill mix to enable to enable the agency to complete its assigned tasks.

• Ensure that the remaining employees receive adequate training. As the existing workforce is downsized, those remaining will have to fill the gaps created by retirees and workers who have accepted buyouts. Since retirees are typically the most experienced federal workers, it is vital that the remaining workforce be given an opportunity to acquire the skills, knowledge, and abilities to perform well. Training is a direct way of easing the transition into a downsized government, enhancing upward mobility opportunities, and improving the diversity in higher level government positions.

In conclusion, Madam Chair, NFFE supports HR 4488 and believes that its passage is necessary to the success of the buyout program and the NPR initiative. Additionally, NFFE supports the buyout program, but we also have serious concerns about the way in which it is being implemented and the effectiveness of the remaining workforce once the 12 percent reduction is completed.

Once again, thank you for the opportunity to appear before you today and thank you for your continued leadership on federal employee issues. I will be pleased to answer any questions you may have.

H.R. 4488

A BILL to amend the Federal Workforce Restructuring Act of 1994 to provide that the duties performed by individuals separating from Government service in order to receive a voluntary separation incentive payment may not be performed by any person under contract with the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON PROCUREMENT OF SERVICE CONTRACTS.

Section 5(g) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 117) is amended to read as follows:

"(g) LIMITATION ON PROCUREMENT OF SERVICE CONTRACTS.—The duties and responsibilities of an individual who separates from Government service in order to receive a voluntary separation incentive payment under section 3 may not be performed, in whole or in part, by any person under contract with the United States.".

Ms. NORTON. Mr. Sullivan.

Mr. SULLIVAN. Thank you, Madam Chair. It is good to be with you again.

As yesterday's hearing, I am going to submit most of my testimony for the record and briefly summarize since we had an extensive conversation about many of these topics yesterday.

We are pleased to be here to support your bill, as we were yesterday. As we have spoken, a lot of the numbers in terms of the downsizing have been budget driven. Your bill is going to make sure the savings are captured and they are not suddenly just transferred to the contractor work force.

If you take a look at the written testimony of the unions, it is funny, because most of the times we come in here and we all testify and we make very similar points, because we often come from the same point of view. We do the same thing today in all supporting this bill. But I was amazed to look at all the unions' testimony and see when they are pointing out how contracting out has not fulfilled its promise, how many different studies we all quote. All of us have different examples of how it has been a dramatic failure.

I want to bring one or two up. Especially because the OMB witness in response to one of your questions said, well, we are not going to do anything right now, but if we see that it has become a problem, then we are going to address it later. I think that is the wrong approach. I think the prophylactic measures which this bill represents and other bills would represent is the right way to go.

In 1989, the House Defense Appropriations Committee audited 36 contracts that had been let and found that in all but one case, it would have been cheaper to perform it in-house. Your bill is going to make sure that we are not suddenly transferring the savings which are supposed to be captured by downsizing to the contractor work force. Our testimony provides a number of ways in addition to your bill that we feel that we would like to take a look at. That we will be taking a look at during Congresswoman McCloskey's hearing in the next 2 weeks.

Thank you and I would be happy to answer any questions you have.

Ms. NORTON. Thank you very much.

[The prepared statement of Mr. Sullivan follows:]

PREPARED STATEMENT OF CHRIS SULLIVAN, LEGISLATIVE DIRECTOR, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES

I. INTRODUCTION

The National Association of Government Employees (NAGE) is an affiliate of the Service Employees International Union, the fourth largest union in the AFL–CIO. NAGE is the fourth largest Federal employee union in the country, representing thousands of Federal employees in the Department of Defense, Department of Veterans Affairs, Department of Transportation, and many other Federal agencies. We appreciate the opportunity to appear and testify before the Subcommittee on Compensation and Employee Benefits of the House Post Office and Civil Service Committee regarding the workforce restructuring and H.R. 4488.

NAGE especially appreciates Chairperson Eleanor Holmes Norton's superb efforts on behalf of the Federal employee community during the 103rd Congress. NAGE members are indebted to you and your staff for the long hours spent searching for fair solutions to the problems which have confronted the Federal employee community. We look forward to working with you in the future as well. Our testimony today addresses buyouts as well as H.R. 4488, which will ensure that contractors will not be able to replace employees who accept buyouts. H.R. 4488 is common sense legislation which we are pleased to endorse.

II. BUYOUTS VS. THE POSSIBILITY OF RIF'S

NAGE remains committed to the importance of buyouts as one of the cheapest and smartest ways to reduce the Federal workforce. Nevertheless, NAGE remains concerned at the ever rising target figure of the numbers of Federal employees that will be affected. Currently, the target figure has risen to 272,900 jobs. While NAGE recognizes that job cuts will occur, it remains a primary concern that this goal be accomplished without widescale use of RIF's. We would like to bring one possible problem to your attention.

Currently, the FY95 Defense Appropriations Bill contains a provision which would eliminate almost 20% of the Civilian Technician workforce. NAGE represents thousands of hardworking civilian technicians who serve their country with honor and distinction. As you know, civilian technicians are excepted service employees who are full-time Federal employees and who, as a condition of employment, must maintain a military position with the National Guard or Reserves. These dual-status technicians do not have placement rights through DoD's Priority Placement Program or the Interagency Placement Program. In addition, these employees do not fit the profile of middle management employees targeted for the overwhelming share of buyouts. For these employees, RIF's are a real possibility. If this unfortunate and unwise provision in the DoD appropriation bill becomes law, NAGE urges the Committee to monitor these situations closely to assure Federal employees will be treated fairly.

Buyouts have been used frequently since the passage of the legislation authorizing their use (P.L. 103–226). The FY95 Defense Authorization Bill extended buyout authority from September 1997 to September 1999, making way for as many as

48,000 more Defense Department employees to receive buyouts. Approximately 15,000 buyouts have been accepted by employees of the Departments of Agriculture, Education, Energy, HUD, Interior, NASA, OPM, Transportation, Treasury, and Veterans Affairs.

III. H.R. 4488 AND CONTRACTING OUT

a. H.R. 4488

The National Association of Government Employees recognizes and understands that the need to reduce the budget deficit will require everyone to tighten their belts. But Federal employees have been asked to sacrifice more than their fair share as the 12 years of Reagan and Bush budgets sought to decimate the benefits and pay of Federal employees. The GAO documented $118 billion of cuts to Federal employees from FY81 to FY91, including salary freezes, benefits reductions, cuts in health care coverage, and elimination of retirement provisions such as the popular lump-sum option. Federal employees continue to shoulder many burdens, including the fear of furloughs or reductions-in-force, staffing shortages, and workload increases. When these concerns are added to the fact that all of our members shoulder all of the increases in taxes that the general population must accept, it is certainly true that Federal employees have done their duty over the past few years.

Accordingly, one of Federal employees' greatest fears is that they will accept buyouts in order to reduce the deficit and avoid RIF's but will find out that their job has not really been eliminated but is merely being contracted out. H.R. 4488 represents an important step to insure that the savings from downsizing really are captured and that expenditures are not merely transferred to or escalated by the contractor workforce.

b. Contracting Out

NAGE wishes to extend its appreciation to Post Office and Civil Service Committee Chairs Norton and McCloskey for bringing the issue of contracting out to the forefront. Chair Norton's focus on this issue during the hearing on the President's FY95 Budget, today's hearing and Chairman McCloskey's upcoming hearing on contracting out; all have focused attention on this important issue.

For the past twelve years, we have pointed to countless GAO reports documenting cost overruns when the Federal Government relied on private contractors to provide services to taxpayers. NAGE and other unions fought for statutory reform because of the bias toward contracting contained in OMB Circular A–76 and its failure to monitor the true cost of contracts. While the Government claimed savings from contracting, billions of dollars went out the back door. Yet Federal employees lacked a level playing field on which to compete for the work farmed out to contractors.

At times, we achieved victories, when Congress stopped to examine the true cost of contracting out. In 1990, the House Appropriations Committee conducted a study to determine the impact of contracting out on defense appropriations. The study concluded that the cost of defense operations had actually increased by as much as $164 million per year from 1980 to 1990 because of wasteful contracting out. The Committee also found that the cost of contractor performance continued to escalate faster than the cost of in-house performance, and that the cost comparison process of contracting out was flawed and resulted in a misappropriation of the overall budgetary impact of the A–76 program on Defense. Yet incredibly, despite the well documented abuses that arise from contracting out, the National Performance Review, in its chapters on "Making Service Organizations Compete," opens the door for increased contracting out. The NPR report, giving special attention to the Department of Defense, the very organization where documented abuses are rife, stated that the Pentagon must overcome its "bias against out-sourcing." NAGE finds this statement incomprehensible. We remain concerned that Reinventing Government could eliminate 272,900 hard-working Federal employees while restoring much of the work to contractor personnel.

While the administration, through the NPR, has asked Congress to remove legislative barriers to contracting out, The National Association of Government Employees has consistently supported legislation to regulate the abuses entailed by contracting out. NAGE continues to believe that contracting out has been a huge failure and that tempting political rhetoric should be rejected when privatization decisions are made for ideological reasons.

While Reinventing Government has hailed initiatives to simplify procedures for procurement of products and eliminate waste resulting from current inefficiencies of the current system, it reverses direction regarding contracting out. H.R. 4488 is an important first step to preventing the possibility of abuse.

IV. NAGE PROPOSALS ON CONTRACTING OUT

Nevertheless, NAGE believes we must go further in understanding the role contractors play in the budget process. While Federal employees' pay retirement benefits, and health insurance are all detailed in the annual budget submissions and in all appropriations bills, contractor costs are often hidden. Therefore, we repeat our comprehensive plan to put contractors in the sunshine.

a. Budget Line Items for Contract Dollars and Personnel

First of all, each agency's budget should include the total dollar amount paid to contractors in each fiscal year, as well as the number of contract employees for each function. In 1989, some estimates placed the size of the Federal contractor workforce in excess of 8 million persons, or almost 4 times the size the Federal workforce. Part of the problem with contracting out is that its expenditures are distributed throughout agency budgets and can often be kept hidden. By announcing this figure up front, Congress and the Administration can determine whether the amount of money allocated to contracting squares with the performance of the services provided.

b. Comprehensive Contract Auditing Procedures

This leads to our second point; there exists no comprehensive auditing procedures for Federal contracts. In 1989 the House Defense Appropriations Committee audited over three dozen contracts and determined that in all but one of the contracts it would have been more cost effective to have performed the functions in-house rather than with contractors.

NAGE recommends that prior to contracting out, agencies should be required to submit a report to Congress detailing the effects on the productivity and efficiency of the Agency. In addition, NAGE recommends that agencies should be required to demonstrate an investigation into the quality of the contractor work as well as the cost. Subsequent to contracting, there should be routine reviews of the net effect of contracting out at the agency. A central data base should be maintained to allow the Government to better understand and control the effects of contracting out on the Federal budget.

c. Statutory Contracting Procedures

Finally, there must be enacted a statutory scheme for making contracting decisions which assures a level playing field between Federal employees and contractors and requires the savings claimed in bids to be achieved through the elimination of cost-plus contracts. Such standards will assure greater uniformity and greater accountability to create a Government that works better and costs less. Certainly, there should be a requirement that work that is not being done in a cost effective manner should be brought back in to be performed by Government employees. Of course, H.R. 4488 begins the task of enacting important statutory reforms to prevent contractors from assuming positions formerly held by Federal employees who accepted buyouts.

V. CONCLUSION

The National Association of Government Employees appreciates the opportunity to appear and present our views on buyouts, H.R. 4488, and contracting out. We thank the committee for holding this hearing and look forward to working with the committee to create public policy that treats taxpayers and Federal employees fairly while accomplishing the missions with which Federal employees are charged.

Ms. NORTON. Mr. Almeida.

Mr. ALMEIDA. Madam Chairwoman, my name is Paul Almeida, president of the Professional and Technical Engineers. Downsizing has been devastating to many Federal workers. I would like to just give you a few examples of what we have seen happen at some of our locals.

At NASA Lewis Research Center in Cleveland, separation incentives were accepted by 199 employees in May of 1994. By June, 13 former employees were identified as rehired, employed by support service contractors. One was hired to finish his old job, and another was hired to perform the same job.

In conversations with our local union president, it was clear that a mockery was being made of the governing legislation. At Portsmouth Naval Shipyard in New Hampshire, employees accepted buyout offers. Shortly thereafter, the shipyard conducted a reduction in force. It was soon discovered that some employees who accepted the buyouts had returned to the shipyard. They were working for a private contractor, performing the same jobs, at the same desks, before accepting the buyout. Fortunately, our local union president interceded and the situation was rectified by the shipyard commander.

Our local at Mare Island Naval Shipyard in Vallejo, CA, is at the other end of the spectrum. The shipyard commander diligently keeps employees informed about buyouts, with a no-nonsense, straightforward approach. Implementation of buyouts were fully explained to employees so there were no unexpected surprises.

At Long Beach Naval Shipyard in California, planners were offered the buyouts. The master plan of the shipyard commander was to provide intensive training to the individuals who would remain. There was an unanticipated influx of work; the shipyard tried to recruit from within those who possessed appropriate knowledge of the job. It was apparent that the shipyard lacked sufficient personnel to perform the work. A decision was made to recall some of the planners. Under the auspices of a contractor, 10 planners were rehired on a temporary basis to do the work not to exceed 60 days.

A total of 15 of the 245 Library of Congress staff members who retired under the buyout from October 14 to December 31, 1993, have returned for limited time periods and remunerations primarily to complete one-of-a-kind work or tasks that were left undone by their previously unplanned retirement. The total remuneration for the contracts awarded these 15 contractors was $213,011.

The largest individual contract was for $60,012, and the smallest was for $250. There were a total of 17 contracts awarded, all of which were related to the specific expertise of the staff members who retired and for specific tasks, deliverables or training of Library employees in the retirees' former organization.

As you can see, our problems run the entire gamut, from Mare Island's model of success, to NASA's flagrant abandonment of the law. Madam Chairwoman, H.R. 4488 deals with the problem. Close the contracting out loophole and give our remaining Federal work force a chance.

Thank you.

[The prepared statement of Mr. Almeida follows:]

PREPARED STATEMENT OF PAUL E. ALMEIDA, INTERNATIONAL PRESIDENT, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS

Good morning, Madame Chairwoman and distinguished members of the subcommittee. My name is Paul Almeida. I am the newly elected president of the International Federation of Professional and Technical Engineers. On behalf of our organization, I wish to thank you for inviting us to give testimony on an issue of great importance to our Federal locals.

Information has surfaced within the Federal Government that we find quite disturbing. Some agencies are negating the congressional intent of the buyout bill by eliminating positions through buyouts and then giving the work to contractors. In some cases employees who received a buyout and subsequently retired are returning as paid contractors. Direct reemployment disincentives were built into the original legislation, but some agencies have found a loophole. Their trickery is so obvious, however, that they are fools if they thought it would go unnoticed and unreported.

It is outrageous that the congressional authority providing the buyout in the interest of saving taxpayer dollars would be subverted by such actions. The end result: More money is spent to accomplish the same tasks, employment opportunities are denied to current employees, and morale falls precipitously causing declines in productivity. Congress intended that positions with critical skills be exempt under this authority so that such problems would be avoided.

Downsizing has been devasting to many Federal workers. How are they to be expected to keep their morale high when they bear witness to positions being refilled by contractors, often times their former co-workers. Federal employees who do this have given "double dipping" a new context. Rehiring "retirees" as contractors is patently unfair to those who were not offered a buyout, and who would have retired and not returned to the Government payroll thru a backdoor method.

Examples of problems encountered with IFPTE with buyouts vary from agency to agency. Some of the problems our members have encountered include:

• At NASA Lewis Research Center in Cleveland, Ohio, separation incentives were accepted by 199 employees in May of 1994. By June, thirteen former employees were identified as rehires employed by support service contractors. One was hired to finish his *old job* and another was hired to perform the *same job*. In a conversation with our NASA local union president, it was clear that a mockery is being made of the governing legislation.

• At Portsmouth Naval Shipyard in New Hampshire employees accepted buyout offers. Shortly thereafter, the shipyard conducted a reduction in force. It was soon discovered that some employees who accepted the buyout had returned to the shipyard. They were working for a private contractor performing the *same jobs* at the *same desks* as before accepting the buyout. Fortunately, our local union president interceded and the situation was rectified by the shipyard commander.

• Our locals at Mare Island Naval Shipyard in Vallejo, California, are at the other end of the spectrum. The shipyard commander diligently keeps employees informed about buyouts with a "no nonsense", straight-forward approach. Implementation of buyouts were fully explained to employees, so there were no unexpected surprises.

The commander has a column in the base newsletter, "The Grapevine", where he provides more detailed information on a variety of subjects related to buyouts. Two new sections will be added to the next issue of "The Grapevine." "Rumors" will cover just that, rumors that have circulated through the shipyard; the second section, "Frequently Asked Questions", will continuously run questions until they are clearly understood and no longer an issue. Mare Island understands the meaning of partnership, and their success with buyouts should be used as a model for other agencies.

• At Long Beach Naval Shipyard in California, planners were offered buyouts. The master plan by the shipyard commander was to provide intense training to individuals still employed by the shipyard to replace those who accepted the buyouts. It was anticipated it would take several months to train these individuals to replace the retired planners. What wasn't anticipated was an influx of work which required the expertise of the former employees. The shipyard tried to recruit others from within who possessed appropriate knowledge of the job at hand. When it was apparent that the shipyard lacked sufficient personnel to perform the work, a decision was made to recall some of the planners. Under the auspices of a contractor, ten (10) planners were rehired on a temporary contract not to exceed 60 days.

DoD's authority does not allow as much flexibility as other agencies to compensate for foreseen/unforeseen increases in their workloads. Therefore, the opportunity to separate service at a later date could not be extended to the planners. This opportunity would have alleviated the unexpected influx of work as well as the need to rehire retired employees.

The lesson learned can also be deemed a success story. Long Beach was under order to eliminate 870 persons from the shipyard's rolls. 692 positions were eliminated through buyouts; another 75 were eliminated through the priority placement program; 56 were eliminated through involuntary separation; the remaining 47 would be eliminated through a reduction-in-force. The influx of new work on the shipyard caused the cancellation of the RIF notices.

Information was requested from the Congressional Research Service. However, at the time of printing, the data had not been received. We will, however, submit their information at a later date.

As you can see, our problems run the entire gambit. From Mare Island's model of success to NASA's flagrant abandonment of the law. Madame Chairwoman, H.R.

4488 deals with the problem. Close the contracting out loophole and give our remaining Federal work force a chance.

The underhandedness must stop and agencies must commit to their hardworking employees a climate for advancement and fairness. I implore this committee to take immediate action against the demoralizing action being taken by some Federal agencies and to restore Congress' original intent to the buyout incentives. Offending agencies must be held accountable for their duplicity. Make H.R. 4488 law and put a stop to contracting out in a downsizing environment.

Thank you.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ELEANOR HOLMES NORTON TO THE INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS

Quesiton 1. What level of involvement in agency buyout plans did your union have?

Answer. IFPTE Local #4—Portsmouth Naval Shipyard comments as follows:

The local was involved on a daily basis with the Agency on all issues pertaining to the buyout process.

IFPTE Local #11—Mare Island Naval Shipyard comments as follows:

Our level of involvement was basically receiving information about when buyouts would commence. As a base on the closure list, virtually all of our bargaining unit employees were eligible to take the buyouts. Currently, the shipyard anticipates offering buyouts again in October, 1995. Again, everyone who wants to take one can.

IFPTE Local #28—NASA Lewis Research Center comments as follows:

NASA Lewis Research Center denied us any involvement whatsoever concerning our buyout plan. It would appear that the Lewis plan was to give buyouts as management deemed appropriate. We complained vociferously but it made no difference.

IFPTE Local #75—Congressional Research Employees Association comments as follows:

The comments of Local #75 are attached in their entirety.

IFPTE Local #174—Long Beach Naval Shipyard comments as follows:

No involvement at the agency level (Navy), notification was given at the activity level.

Question 2. To the extent you have received employee criticism of agencies' buyouts, what were the nature of the criticisms?

Answer. IFPTE Local #4—Portsmouth Naval Shipyard comments as follows:

The local was involved on a daily basis with the Agency on all issues pertaining to the buyout process.

IFPTE Local #11—Mare Island Naval Shipyard comments as follows:

The local has not heard of any criticisms at their office.

IFPTE Local #11—Mare Island Naval Shipyard comments as follows:

There was little or no criticism of the buyouts. Other than most employee wanted the buyouts offered continuously. The shipyard decided that from a logistical point of view, October 1995 was the earliest buyouts could be offered. Locals 5 and 11 do not disagree with their timetable.

IFPTE Local #28—NASA Lewis Research Center comments as follows:

The major criticism was that people who took the buyouts were rehired by the contractor. The next big criticism was the appearance that it was done secretly and therefore probably unfairly since no employee involvement was permitted.

IFPTE Local #75—Congressional Research Employees Association comments as follows:

The comments of Local #75 are attached in their entirety.

IFPTE Local #174—Long Beach Naval Shipyard comments as follows:

There were no complaints at Navy, buyouts offered to all. The Bureau of Reclamation unit had no complaints to report.

Congressional Research
Employees Association
— IFPTE, Local 75

Library of Congress ■ 101 Independence Avenue, S.E. ■ CRS-LM 412 ■ Washington, D.C. 20540
(202) 707-7636

November 2, 1994

TO: Julia Hudson
Subcommittee on Compensation and Employee Benefits

FROM: Dennis M. Roth
President, Congressional Research Employees Association

SUBJECT: Questions for the record re: buyouts

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Q. 1. What level of involvement in agency buyout plans did your union have?

A. 1. On August 11, 1993, the Congress gave the Library of Congress authority to pay voluntary separation bonuses to employees who would separate before January 1, 1994. On September 24, 1993, the Library received approval from the Office of Personnel Management (OPM) to offer voluntary early retirements during the period October 1, 1993 through December 31, 1993.

On September 28, 1993 the Library first informed the Library's unions (including the Congressional Research Employees Association, IFPTE Local 75) of its intent to offer early outs and separation bonuses and held an information session with the unions. This was the case even though the unions had inquired several times of the Library in August and September when it planned to use the authority given to it in August. Each time the unions informed the Library that they wanted to bargain to the fullest extent under the law. Also on September 28, 1993 the Library gave the unions a draft Library of Congress Special Announcement that was to inform staff of the Library's plans of offering early outs and separation bonuses and how the Library planned to implement these programs. At this point the Congressional Research Employees Association (CREA) and the other two unions told the Library that the Special Announcement was premature since no bargaining had taken place. The Library orally stated its intent to bargain and asked CREA and the other unions to return the following day to discuss the Special Announcement. When we met on September 29, 1993 CREA informed the Library that decisions stated in the Special Announcement needed to be bargained. Much to our disappointment we were informed that the Special Announcement was being distributed as we were meeting. At this point we could have filed an unfair labor practice but did not do so as the Library continually stated that it wanted to bargain the impact and implementation of the programs as well as any other legal obligation. Since the programs were not to start until October 14, 1993, CREA hoped that it had enough time to bargain and get the necessary changes. The parties continued to meet the week of October 5, 1993 for the purpose of bargaining. The Library told the unions it had a plan for implementation and that it would share this plan with CREA. The plan was never presented and it became clear to the unions that the Library was making up procedures as it went along. Consequently, CREA and the other unions developed a plan but was not able to present it to management until October 7, 1993, because of their insistence that the Director of Personnel be present. The unions' plan was presented on this date (the Director of Personnel never did attend the meeting) and expected a response from the Library on October 12, 1993. No proposal was forthcoming. On October 14, 1993 a request for the Federal Service Impasses Panel was filed by CREA and the Library began implementation.

An unfair labor practice was filed at the same time over the Library's failure to bargain in good faith and for implementing before the FSIP had an opportunity to rule. Nearly nine months later the Federal Labor Relations Authority was about to issue a complaint against the Library when the Library reached an agreement with CREA (attached). This agreement states that the Library will bargain with CREA over this matter in the future. CREA hopes that the Library will honor this agreement.

Q. To the extent you have received employee criticism of agencies' buyouts, what were the nature of the criticisms?

A. Employee criticisms focused on the short time frame available to get adequate counselling on the full implications of retirement and also on the "stampede" procedure that the Library had instituted to qualify for a buyout. (Since only 250 buyouts were being offered and the Library wanted a first come, first served procedure, over 150 employees lined up outside the Library to ensure their eligibility.) Some also complained that the Library did not inform them of tax law changes in January 1994 that resulted in a larger tax bite than expected. (See attached.)

No buyouts were sought nor authorized for FY 1995.

Memorandum of Understanding

1. On August 11, 1993, the Congress authorized the Library of Congress (Agency) to pay voluntary separation bonuses (early buyouts) to bargaining unit employees.

2. During August and September, 1993, American Federation of State, County and Municipal Employees Locals 2477 and 2910 and Congressional Research Employees Association, IFPTE, AFL-CIO, (Unions), advised the Agency of their desire to bargain to the full extent of the law about the early buyouts.

3. On October 14, 1993, the Agency unilaterally implemented the early buyouts and began accepting retirement applications from employees.

4. The Agency agrees to negotiate with the Unions, consistent with the requirements of the Federal Service Labor-Management Relations Statute and the parties' collective bargaining agreements, about any program for early buyouts for unit employees which it will implement hereafter.

5. The Agency agrees to post a notice to employees in all locations where such notices are usually posted for a period 30 consecutive days from the date of posting advising employees of the conduct which is described above and that the parties have agreed to the above-described steps.

6. The Unions agree to withdraw their charge in Case WA-CA-40025.

Martez Baker DATED 10/6/94

Martez Baker, President
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, LOCAL 2477, AFL-CIO

Dennis M Roth DATED 10/5/94

Dennis Roth, President
CONGRESSIONAL RESEARCH EMPLOYEES ASSOCIATION, IFPTE, AFL-CIO

Peter J. Watters DATED 10/5/94

Peter J. Watters, Acting Special Assistant for Labor Relations
LIBRARY OF CONGRESS

NEWS

Staffers Camp in Line for Retirement Incentives

About 170 Library employees, many with years of experience and talent that will be hard to replace, waited patiently in a Madison Hall line early Thursday morning, Oct. 14, to begin the process of "separation."

Long-timers secure in the knowledge they could afford to retire were cheerful, even jubilant, that they could begin their "golden years" of gardening, golfing, relaxing, traveling—with a bonus of up to $25,000. Those taking advantage of "early-out" opportunities were looking forward to mid-life career changes, to "do what I want to do, now." Most were sad to leave old friends. Several complained that their departure was a "public spectacle," that they were "herded out like cattle," and that so many — 12 — Library Police officers were assigned to keep them in line.

Those taking the early-out option seemed particularly eager to leave. "Good-bye. See you all later," shouted Patrick Kelley, 51, waving his "early out" number — one — to cheering LC colleagues still standing in a snake-shaped queue after he turned in his retirement application at 6:30 a.m.

He was so eager to take advantage of the opportunity to retire early with an annuity as well as a cash incentive that he staked out his number-one spot in front of the Madison Building doors the night before, at 8:45 p.m. The doors did not open until 6 a.m. Oct. 14.

He was soon joined by about 25 other early birds bearing blankets, sleeping bags, and chairs. Ensuring they would be among the first eligible for 250 retirement incentives, the number in line grew to about 40 persons between 2 and 3 a.m., "really picked up" at 5 a.m., and reached 150 at 6:30 a.m., when the Human Resources staff, set up for the day in Madison Hall, began checking paperwork, answering questions, and stamping applications with time and date. So efficient was this part of the process that the line was reduced to zero by 9:30 a.m.

"This is a wonderful opportunity for me," said Kelley, an administrative officer in the Office of the Associate Director for Operations, Congressional Research Service. With a total of 24 years of federal service, including 21 years at the Library, he normally would not have been able to retire until 1999, when he would have the minimum requirements of age 55 with 30 years of service.

The second person in line for an early out was Edward Jewell, 47, who was leaving the National Library Service for the Blind and Physically Handicapped after 27 years of federal service—26 at LC. He kept warm in a sleeping bag and listened to his Walkman throughout the night. "I'm going to relax, sell Mary Kay cosmetics, and continue to prepare income tax returns"—a service he provided while on the LC staff.

Reba Barnes, 44, with 27 years of Library service, began the separation process Thursday morning but postponed her decision to take the early out until after meeting with her husband and a retirement counselor that afternoon.

A Copyright Office technician and energetic organizer of events, Barnes promoted activities ranging from choral concerts and LC's annual Family Day to the Library-wide Christmas celebrations. She recently helped reorganize the LC Recreation Association. "It's time to make new inroads, to start my own business, as a consultant for planning meetings," she said. "There will be no job here for it until I stop volunteering."

"I'm now on cloud 10," said Samuel Wilson, 57, a Serial Record Division employee for 25 years, after Retirement Center staffer Anne Wilson checked his retirement application for accuracy. "This has been one religious experience. It has taught us patience, endurance, confidence, and appreciation for the Library, especially this lady here; she has done so much for us," Wilson said, noting the other Wilson's help. He said he will take up his Baptist Church ministry after retiring.

Fifteenth in line, Wilson kept company with 14th in line, his Serial Record Division colleague, Evelyn Hagwood, who after 30 years and 10 months of Library employment spent her last eight hours at LC huddled outside the Madison in a sleeping bag. "She snored, even while the TV cameras were filming us at 2 or 3 this morning," Wilson said, kidding her.

Hagwood said she had already "checked out" and was leaving employment that day. "I'm going to take care of my 94-year-old father in Ohio," she said.

Among those leaving were some key managers and support staff—division chiefs, long-time secretaries, administrative assistants, time-and-attendance keepers, catalogers, police officers, technicians, clerks, and research specialists—persons as familiar to the Library landscape as the Neptune Fountain.

Deciding to take advantage of the retirement incentive was Raymond L. Dockstader, deputy director of the American Folklife Center, a 40-year veteran of federal service, including 17 years with the Library and 22 years as a legislative assistant to former Montana Sen. Mike Mansfield. "I had planned to go earlier, but the retirement counselors told me I would be an idiot not to wait," he said chuckling.

Even so, Dockstader—like many other colleagues—had no time to plan for an orderly departure and transition for a successor. He said he would be returning to work for a few weeks to leave things in order for his staff of 16.

Mary Price, director for acquisitions, Collections Services, one of 22 persons from her directorate to retire on Oct. 14, took an early out after 25 years of Library service. "I've been planning for a mid-life career change," she said. With a long-time interest in gardening and a bachelor's degree in psychology, she wants to combine the two in "horticultural therapy" for older and disabled persons.

Some initiated the retirement process early Oct. 14 but gambled—correctly—they would have some time, perhaps even a few days, before exiting because not all 250 persons would go

See LINE, Page 10

NEWS

LINE, Continued from Page 9

out at once. Not about to be rushed out the door were two old-timers, 42-year veteran Pat Hines, acting chief of the Special Materials Cataloging Division, and 40-year-employee Harriet Ostroff, editor of the National Union Catalog of Manuscript Collections.

"I came in at my regular time (around 7 a.m.), went upstairs and puttered around, and came down here," Hines said. "It will take me a week to get cleaned out; I'm going to do it one shelf at a time."

"I refuse to leave in such an undignified manner," said Ostroff, who was standing near the end of the line with her retirement application filled out except for the date of retirement. "Money is not going to change my life. I refuse to humiliate myself for money." Ostroff retired the next day when things were not so hectic.

Suanne Thamm, 47, assistant executive officer, Collections Services, put in her application on Oct. 14 but wants to wait until her anniversary date of Nov. 18 to retire. "I want to get my 25-year pin and my walking papers on the same day," she said. "Some of us are playing the odds and hoping to get an early out."

Thamm said she hopes to do something "more creative than writing memos. I'd like to try my hand at freelance writing. I've never had the courage to try it, but if I had a little cushion, I would like to travel and write."

She and Price both said they had carefully calculated their retirement annuities and were not being lured out the door by the early-out bonus. Several in line said they feared some of their colleagues had not planned very carefully, were tempted by the incentive of up to $25,000 to retire early with less than they could live on for very long, but felt rushed to make a decision. The Library first announced the retirement incentive plan in a Sept. 29 special announcement. "I worry that many people have not given careful thought to their annuities," said Thamm.

One man did surrender his place in line. "He looked at our bank balance this morning and changed his mind," said his wife with a laugh.

Several staffers had been meeting with retirement counselors for months to calculate their retirement options and annuities, watching Mike Causey's *Washington Post* column for information about government buyouts, and preparing to spring at the chance to exit early. "I knew the opportunity might come up, and I had a plan for it; I refinanced the house," said Louis H. Berube, 49, an administrative operations specialist in Collections Services.

He was 18 when he went to work at LC, opening mail in Legislative Reference Service. That was 31 years ago, in 1962. "Now it's time to do what I want to do, to go into business for myself," Berube said. He wants to get a contractor's license so that he, his brother, and brother-in-law can start charging for the home improvements they've done for years for friends and relatives. Berube also is a partner in a racing stable.

"This is kind of sad. For a lot of people, it's the last big step they will take until they die. This is a big decision," said Donald G. Shomette, supervisor, Graphics Unit, who at age 49 was leaving with 19 years of LC service and 23 1/2 years of federal service.

Shomette, who has written and published 10 books to date about underwater archaeology and history, wasn't worried about what he was going to do. In the offing are a contract for a series of three books, prospective employment as a Maryland state underwater archaeologist, and a Navy project to create an underwater park in the Potomac River.

Shomette parted with a litany of complaints about LC: ". . .the lack of any final authority over my staff (for example, I've had to stop the flow of regular work to accommodate last-minute rush jobs from the Affirmative Action and Special Programs Office); the lack of access to the stacks; the mentality of the institution, which is that the staff is less than competent; the existence of a police state.

"The other thing is, I've been at the same grade level for 23 years and passed over for promotion about 26 times," grumbled Shomette, who with his staff just won top honors in a *Government Computer News* contest for the best-designed government newsletter, book or booklets, and brochures.

Shomette was not alone in his complaints about some Library Police officers. According to some staffers who spent the night in front of the Madison Building, a "party atmosphere" prevailed as old friends and acquaintances told jokes and war stories—until six police officers appeared about 4 a.m. Kelley had started an informal roster, and colleagues held one another's places during necessary searches outside the locked building for an open restroom or a cup of hot coffee. The spirit of cooperation ended when police warned that anyone breaking rank temporarily would have to go to the end of the line.

"No fraternizing," one officer told arriving staffers as they attempted to banter with their friends in line. "Get back. Get back. You can't talk to anyone in line."

"I think this is a hell of a way to treat people who have worked here for 25 years or more," said one woman who asked that her name not be used. "There are a lot of people in this line who have kept the place going despite the craziness in high places. . . . The next person I hear say that the staff are the treasures of the Library of Congress I'm going to choke; one man's treasure is another man's trash."

Capt. Yvonne Parker said she could not respond to allegations about Library police officers unless staff members brought the allegations to her attention. "I was one of the early people there. I saw nothing and heard nothing like that. Nobody reported a single, solitary thing to me," she said. Twelve officers were assigned to early-morning duty in Madison Hall and outside the building, and three supervisors occasionally visited the scene, she said. ❑

both ways: It wants the freedom of a private corporation without the accountability of using public dollars.

that, according to The Post, what they were hearing was not in fact credible news but only propaganda from a "non-independent," taxpayer-

SID D
Program D
Voice of A
Washin

BY TOM ALLEN—THE WASHINGTON POST

Is This Any Way to Treat an Employee?

The Oct. 15 news photograph "Lining Up to Retire," which showed Library of Congress employees waiting at the Madison Building to apply for $25,000 buyouts and retirement, failed to show the insensitive and disgraceful way that the Library of Congress chose to conduct this buyout and retirement.

The Library of Congress stated that it would give the buyout to the first 250 people to apply. So to ensure themselves of making the cut, people had to wait in line. A few camped out all night, most arrived at 3 or 4 in the morning to wait on a raw night for the doors to open. One would think that they were waiting in line to buy World Series tickets.

These people had worked for the Library of Congress for 25 to 30 years, and their thanks was to be treated like cattle upon their retirement. What kind of message does that send to government employees and future employees who might consider public service as a worthwhile career?

In a time when the White House wants to reinvent government by streamlining, becoming more efficient, more dedicated and more responsive to its constituents, is this the way for the Library of Congress to treat lifelong employees?

JERRY DAVID
Silver Spring

How Many People in the West Bank?

The success of the Israel-PLO accords has brought forth promises from the international community to pour $2 billion into projects to boost living standards for the residents of the West Bank and the Gaza Strip. But The Post's reporting would leave one confused as to the number of people who would benefit from such economic aid.

story, the West Bank's population was reduced to 1 million Palestinians, and in a Sept. 16 story the Gaza Strip's population was reduced to 700,000 residents. By Sept. 24, the populations had again increased, and the West Bank was home to 1.1 million Arabs and the Gaza Strip had nearly 1 million people.

As economic aid pledged by the inter-

Enough Hurdles for Teach

I was amused by the Oct. 7 le by Arthur E. Wise, president of National Council for the Accredita of Teacher Education. Basically, asserted that teachers should be c fully trained and should meet ap priate standards. I agree.

However, Mr. Wise advocated s licensure, which essentially means and his small band of education perts" will determine the prerequis by which teachers are judged. In ot words, he said: Let me determine is qualified to teach.

Education is burdened with enc administrative drudgery. Let th who are determined to teach do sc

To think that under Mr. Wi plan, Albert Einstein would have to through 400 classroom hours of r sense in order to teach physics, de intentions of providing good teache

We certainly do not need any m hurdles for aspiring teachers to forced to overcome.

T. NOLAN DAL
Arling

'Cat' Facts

Jack Anderson and Michael stein's essay on the "Home-Gro Drug Menace" [op-ed, Oct. 10] long on alarmist rhetoric but shor facts.

According to Mr. Anderson Mr. Binstein, methcathinone, or "c was first used on a mass basis Russia beginning "several dec ago." But they produced no data the number of users, addicts or fa ties—if any.

This drug has apparently b available, at least in Michigan, four years. Yet Mr. Anderson and Binstein do not even produce indi ual evidence of usage, addiction fatality.

Perhaps that is because, out Northern Michigan, there is littl no interest in cat. Certainly that is case in Ann Arbor and Marquette

Ms. NORTON. Thank you, Mr. Almeida.

Mr. Almeida, it is interesting, Mr. Koskinen, and for that matter, Mr. Klein of OPM, Mr. Koskinen of OMB, indicated that there had been no instances that had been reported to them. Were these instances reported up to the agency head that you have rendered in your testimony?

Mr. ALMEIDA. I have no knowledge of that at this time. I am newly elected and just getting on board at the Federation and testimony was prepared.

Ms. NORTON. There is—there of course has been documentation of a kind that your colleagues have alluded to on contracting out generally. We are—my bill of course is concerned that those abuses not be carried over into buyout contracting. And I want to say to all of you that you would be very helpful to us if you could also be watchdogs here and let the committee know of any instances where there may be use of contractors. The testimony is very useful in that way, but we do need to document this and to monitor this process. And very often your people on the ground and in the agencies are in the best position to do so.

Mr. Almeida, you said that the situation where the action of the contracting employees were just brought on as actual replacements of the people who had been bought out was rectified. How was it rectified?

Mr. ALMEIDA. I am not sure at this time, but I will provide that information.

Ms. NORTON. We appreciate knowing what the Agency—what the base went through in order to do that. Do any of you anticipate there will be RIF's in the coming fiscal year, among any of your members?

Mr. BOWERS. I have no knowledge of that, Your Honor.

Ms. GILMAN. None of our agencies have indicated that to us.

Ms. PEDDICORD. We have no knowledge of any planned RIF's, but we are concerned that the buyouts be targeted properly so that a RIF will not occur. That concern for me is primarily on the impact of affirmative action and diversity. But to our knowledge, there are no plans of RIF's. There is just shifting.

Ms. NORTON. I want to thank all of you for testifying. I do have some other questions for you, but in light of the hour, I would like to be able to submit them in writing to you. I will hold open the record for 2 weeks in order to receive your answers.

I very much appreciate any work you are doing in this regard since you come at it from where management cannot possibly come, and therefore we need always your very vigilant participation.

Again, thank you very much for this testimony.

We have one more person. I am sorry, Mr. Mark Gable, I certainly don't want to leave you out after having waited this long, from the Federal Managers Association.

Please come forward.

If you would summarize your testimony, we would be glad to receive it. I apologize that you had to wait so long.

STATEMENT OF MARK GABLE, LEGISLATIVE REPRESENTATIVE, FEDERAL MANAGERS ASSOCIATION

Mr. GABLE. Oh, it was very informative, watching the other panels testify. I will attempt to condense and summarize my remarks.

As you know, my name is Mark Gable, I am the legislative representative for the Federal Managers Association, and I want to thank you for the opportunity to present our views on the Federal Work Force Restructuring Act and on the legislation which you have introduced, H.R. 4488.

I would like to begin by thanking you for the leadership role that you played in enacting the Federal Work Force Restructuring Act. Despite some of the problems that FMA sees with the long-term effectiveness with the law as currently constituted, we view it as a very important tool in avoiding reductions in force.

Of all the groups that have testified here today, I believe the Federal employees that I represent have been and will continue to be the most profoundly affected by the enactment of Public Law 103–226. As you know, a large portion of the 272,900 position reduction called for in the law will come from the ranks of managers and supervisors. And as part of this downsizing, the span of control for managers and supervisors will be increased, doubled, to a proposed ratio of one supervisor for every 15 workers.

The main problem that we have at the moment with the Federal Work Force Restructuring Act is that, although we don't anticipate RIF's in 1995, the buyout authority appears to be adequate to avoid RIF's next year, I understand OMB plans on offering 40,000 buyouts. However, we believe that the pool of eligible workers for taking the buyouts will be exhausted and that over the long term, beyond 1995, we have serious doubts about the ability of the current buyout authority to avoid RIF's.

We also see a number of other obstacles besides the early expiration date of the buyout authority. And those being, of course, the employee backfill provision and also the unattractiveness of buyouts to managers in the long run.

As you know, the buyout authority for the Department of Defense was recently extended through 1999. Although we do not want to make any recommendations at this time for an immediate change in the buyout authority, because we believe that would have a negative impact on employees currently considering taking buyouts next year, we do believe that over the long term, that changes will have to be made to the buyout authority to increase the duration of the authority that is extended to non-DOD agencies, as well as improving the buyout incentive as it becomes more difficult to attract higher-level workers to leave as the eligible pool of buyout takers becomes exhausted. In that regard, we would ask for an examination of any type of mitigation for the 2 percent penalty.

I recently attended our third national midyear conference in San Antonio, TX, and when our president mentioned to our 200-some delegates that we were seeking an elimination of the 2-percent penalty, they all stood up and cheered and applauded. We realize that is a very expensive proposition, but we believe that any mitigation such as allowing the $25,000 separation incentive payment to be used to offset that penalty, would greatly increase the effectiveness of the buyout authority.

In addition to some of the problems that I have stated, I would also like to briefly relay to you some of the experiences that our members have had with the buyouts. The overall goal obviously is to make Government work better and cost less, and to increase the supervisory-to-management ratio, but the experiences of our members doesn't necessarily reveal that these goals are being accomplished.

Particularly at the General Services Administration, our members there have told us that out of the 2,400-some GSA employees who have signed up for buyouts, only 200 of those are managers. In one instance, at the White House, 55 GSA employees responsible for maintaining the grounds and facilities are leaving the Government service. And these employees will be extremely difficult to replace because of the time that is required for their extensive background security clearances.

Another problem with giving this general authority is that some of our managers at GSA report that they don't have the clerical help that they need to do their jobs. In some instances, they are being forced to contract for secretarial services, which is much more expensive than having Government secretaries perform this work. In addition to being not as cost efficient, it is also putting in jeopardy the goal of having an effective, expanded span of control for the managers. If the managers are forced to do their own photocopying and answer their own phones, then it makes it very difficult for them to concentrate on their duties and take on the added responsibility of supervising twice as many employees.

This problem of lack of clerical help is also being experienced by our members at the Department of Labor. Although the Department of Labor is only offering 100 buyouts, a number of employees are taking advantage of the voluntary early retirement authority, and in particular the Department's Wage and Hour Division, a number of investigators have left under the VER authority, and as a result, the Department is having to cut back on enforcement. And like their fellow managers at GSA, our DOL managers are also suffering from an acute lack of clerical support.

In summary, I would just like to briefly make our recommendations for improvements that could facilitate a long-term downsizing and an effective restructuring. FMA would like to see the VSIP and VER authority for non-DOD agencies extended throughout the duration of the downsizing, through 1999.

As we testified yesterday, we are very much in support of your efforts to create a Governmentwide priority placement program. We think that is a very important component of overall efforts to accomplish restructuring. And would also like to see an examination of possible improvements to the monetary incentive to attract the target audience of higher-paid managers and supervisors to leave Government service.

Madam Chair, that concludes my remarks. I would be happy to answer any questions you may have.

[The prepared statement of Mr. Gable follows:]

Prepared Statement of Mark Gable, Legislative Representative, Federal Managers Association

Madam Chairwoman and Members of the Subcommittee: My name is Mark Gable and I am the Legislative Representative of the Federal Managers Association. As we enter year two of the Administration's program to reinvent government to work better and cost less, I want to thank you for the opportunity to appear before you this afternoon to present FMA's views on a significant initiative of the National Performance Review (NPR), the Federal Workforce Restructuring Act of 1994 (P.L. 103–226). I also want to thank you for the opportunity to comment on H.R. 4488, legislation, which you madam Chairwoman have introduced, to restrict contracting out at agencies that are offering Voluntary Separation Incentive Program (VSIP) payments.

The Federal Managers Association is the largest Federal professional management association, representing the interests of over 200,000 Federal managers and supervisors throughout the Federal Government. Madam Chairwoman, on their behalf I would like to thank you for the leadership role you played in shepherding the Federal Workforce Restricting Act through the Congress earlier this year. Despite some of the problems we will discuss here today, Public Law 103–226 represents an important tool in avoiding, expensive, destructive, and morale busting reductions-in-force.

Of all groups that are testifying today, I believe that the Federal employees I represent have been and will continue to be the most profoundly affected by the enactment of Public Law 103–226. As you know, Madam Chairwoman, the Federal Workforce Restructuring Act calls for the elimination of 272,900 Civil Service positions by the end of fiscal year 1999. A large portion of this number will come from the ranks of managers and supervisors. As part of this downsizing, the span of control for managers and supervisors will double over the next five years from the current government average of 1 supervisor for every 7 employees to a proposed 1 supervisor for every 15 workers.

As enacted, the Federal Workforce Restructuring Act is expected to produce $22 billion in savings from reducing the size of the Federal civilian workforce. However, as currently constituted, this law contains obstacles to effective streamlining and restructuring. In FMA's view, the major benchmark of success for the Federal Workforce Restructuring Act will be the number of RIFs that are avoided, and the ability of the downsized workforce to effectively carry out agency mission requirements. The ability of agencies to reach this goal would be greatly enhanced by expanding the law to include additional tools and flexibilities to accommodate the long-term downsizing called for in the law.

The Department of Defense has done a good job of using buyouts and other tools to avoid RIFs. In carrying out a reduction that will take the Department from almost a million employees in 1993 to 716,073 employees in 2001, ten DoD employees have left voluntarily in fiscal year 1994 for every one that had to be laid off. So far this year, 30,000 DoD employees have taken buyouts and 3,000 DoD employees have been RIF'ed. DOD was able to achieve this favorable result because the base closure process encourages employees to accept buyouts and because the Department has a number of important tools that non-DoD agencies do not now possess. In addition to not being encumbered with the one-for-one employee back-fill provision, DoD has a well run internal Priority Placement Program that should be emulated by other agencies and expanded government-wide. However, the successful continuation of DoD's downsizing program may be difficult to sustain as the Department's retirement-eligible population dwindles and as internal placement opportunities diminish.

Obstacles to Effective Use of VSIP Authority to Avoid RIF's

FMA expects that problems non-DoD agencies may experience in seeking to reach their restructuring goals will arise largely from differences that exist between their VSIP authority and that currently granted to DoD. FMA also believes that government-wide restructuring problems will be exacerbated by the relative long-term unattractiveness of buyouts to managers and the manner in which some agencies are conducting their VSIP.

Short Duration of Non-DoD VSIP Authority

The 1993 Department of Defense Authorization Act (P.L. 102–484) granted the Department VSIP authority and voluntary early retirement authority (VERA) through Fiscal Year 1997. This authority was recently extended through Fiscal Year 1999 in the 1995 Department of Defense Authorization Act, S. 2182.

Out of the 272,900-position reduction in the size of the Federal workforce, DoD reductions are expected to account for roughly 160,000 positions. About 113,000 positions of the workforce reduction will have to come from non-DoD agencies. The non-DoD VSIP authority, however, lasts only until March 31, 1995. FMA is very concerned that non-DoD agencies are being forced to front-load their workforce reduction plans and that they will not be able to avoid RIFs in 1996 and beyond as they try to meet their reduction targets.

Employment Back-fill

One of the biggest obstacles to effectively restructuring the Federal workforce stems from the employment back-fill prevention provision contained in Section 5 paragraph (f) of the Federal Workforce Restructuring Act. This provision, which was not requested by the Administration and was added to H.R. 3345 by the other body, requires non-DoD agencies to reduce their FTE levels by one position for every employee who receives or is scheduled to receive a VSIP payment.

The back-fill provision has created a market for "offsets." OMB must insure that among non-DoD agencies that the total number of buyouts offered does not exceed the number by which the combined number of FTE's is reduced. This involves considerable juggling of numbers between agencies that are mainly downsizing and those that are restructuring. Downsizing agencies produce a surplus of offsets to the extent that the number by which their FTE's are reduced is greater than the number of buyouts they offer. Restructuring agencies that are eliminating some functions and building up others may use these offsets to facilitate their reductions. OMB, however, reports that agencies wanting to restructure are requesting three times as many offsets as are available.

The Unattractiveness of Buyouts to Managers

When FMA testified before this Subcommittee and the Civil Service Subcommittee in October of last year, we expressed our concerns about the ability of agencies to encourage managers to accept buyouts. Six months after the enactment of government-wide buyout authority and 15,000 non-DoD buyouts later, FMA remains concerned that the VSIP may not be attractive enough in the long-term to accomplish the reduction in the number of managers sought by the Administration.

Avoiding Government-wide RIF's in the long-term will require beefing up the arsenal of downsizing tools available to agencies. In particular, the permanent 2% penalty reduction in annuity for every year an employee is retired from government service before reaching age 55 also poses a serious obstacle to reaching the Administration's reduction targets for managers. In many instances, the $25,000 retirement incentive does not come close to offsetting the lifetime reduction employees would experience if they retired before age 55. For example, managers who retire early are forgoing expected yearly salary increases and the lack of thee increases greatly reduces their potential pension income earnings. As a result, many managers find they cannot afford to retire early.

FMA is concerned that without elimination or mitigation of the 2% penalty for employees accepting VSIP payments, future reductions will be difficult to accomplish after the eligible pool of retirement-age workers, for whom the buyout is attractive, has been exhausted.

Agency Administration of Downsizing

Madam Chairwoman, the experiences of FMA members across the government point toward a troublesome trend of repeating the 1992 experience of the U.S. Postal Service that led to a hollow workforce.

General Services Administration

FMA members at GSA report that, like the Post Office, no restrictions were placed on their agency's buyouts. Of the 2,400 GSA employees who have signed up and are scheduled to receive buyouts only 200 are managers. Instead of promoting a flatter organization, GSA's buyout program appears to be having the effect of taking away the employees managers need to accomplish their mission.

At the White House, 55 GSA employees responsible for maintaining the grounds and facilities are leaving government service with buyouts. These employees will be extremely difficult to replace because of the amount of time required to conduct the background investigations required for the top security clearance all White House GSA workers must have.

FMA members at GSA also report that the downsizing is robbing them of their clerical help. Managers are increasingly becoming tied up with clerical work or being forced to contract out for clerical services. Instead of paying $20,000 to $30,000 for government secretaries, GSA managers who contract out for clerical staff are paying their secretaries between $45,000 and $50,000. Clearly this situation is not cost effective nor conducive to effectively doubling the span of control for managers and supervisors.

Department of Labor

While the Department of Labor is only offering 100 buyouts, a number of employees are taking advantage of VERA to leave government service. At the Department's Wage and Hour Division a significant number of field investigators responsible for enforcing the provisions of the Fair Labor Standards Act have left government service. Due to restrictions on hiring, these enforcement officials are simply not being replaced. As a result, the Department is cutting back on enforcement.

FMA members at DoL are also experiencing great difficulty in retaining clerical support. Due to lack of clerical staff, DoL managers are answering phones and performing photocopying instead of concentrating on their primary responsibilities. This instance of a hollow workforce at DoL is very frustrating for managers who want to do a good job but lack the support they need to accomplish their mission. In addition, having experienced and well trained managers and supervisors making copies and answering phones is not an efficient use of taxpayer dollars.

FMA'S SUGGESTIONS FOR IMPROVING THE FEDERAL WORKFORCE RESTRUCTURING ACT

While FMA would like to see a number of immediate improvements in the Federal Workforce Restructuring Act, we recognize that any effort to change the terms for government-wide buyouts shortly before the October 1, 1994, start date for offering VSIP payments would: pose an undue administrative burden on agencies that already have buyout plans in place; cause confusion and chaos among those who have already made their decision on whether to accept buyout offers; and put in jeopardy the goal of avoiding RIF's through the extension of 40,000 buyouts by encouraging civil servants to wait for a better offer.

FMA does not want to negatively impact the upcoming round of government-wide buyouts by contributing to expectations that the current non-DoD buyout program will be changed before its March 31, 1995 expiration. Rumors such as extension of the "triple nickel" or elimination of the 2% penalty only hurt the buyout program's chances for success. Controlling unfounded rumors about buyouts is necessary to avoiding RIF's. In this regard, FMA applauds the efforts of the Office of Personnel Management for its establishment of a buyout hotline and computer bulletin boards to make accurate and up to date buyout information universally available to Federal employees.

However, in looking ahead to 1996 and beyond, FMA would like to submit the following suggestions for expanding and improving the tools available for restructuring the Federal workforce.

Extend Non-DOD and VERA Authority Through FY 1999

• In order to accomplish a non-DoD downsizing of 113,000 employees by 1999 the non-DoD VSIP authority should be extended from March 31, 1995 to September 31, 1999. As stated earlier, this authority was recently quietly extended by two years for DoD through September 31, 1999, without a large battle over the mandatory costs associated with the VSIP. Considering the $22 billion in discretionary savings that are being accomplished with the workforce reduction, the mandatory costs from extending buyout authority for the duration of the downsizing period are quite small. In any examination of extending the current non-DoD VSIP authority, FMA would urge for consideration to be given to the issues that do not easily lend themselves to tabulation on a balance sheet, such as the composition and effectiveness of the post-downsized government, that will be seriously compromised if non-DoD agencies do not have the tools they need to avoid RIF's.

Eliminate the Employee Back-fill Provision

• FMA strongly supports elimination of the non-DoD VSIP back-fill restriction. This restriction is a significant impediment to effective restructuring of the Federal Government and is contributing toward the creation of a hollow workforce.

Increase the Monetary Incentive To Leave Federal Service

• Recognizing that elimination of the 2% penalty for those who retire before age 55 will be very expensive under congressional budget rules, FMA recommends that employees accepting VSIP payments be allowed to use this money to offset the early retirement penalty. FMA would also like for the separation incentive to be the *greater* of $25,000 or the severance pay entitlement. In addition, FMA would like for VSIP payments to be tax exempt if they are going to be: rolled over into the Thrift Savings Plan, invested in a small business, or used for retraining or continuing education activity. All of these suggestions would make buyouts more attractive to managers in the future. FMA anticipates that these improvements to the buyout program will be needed in the future to avoid RIF's after buyouts have encouraged retirement eligible workers (who were delaying retirement to receive a bonus) to leave Federal service.

Create a Government-wide PPP

Madam Chairwoman, as I have stated before, FMA believes that non-DoD downsizing efforts will be made more difficult to the extent that these agencies do not have some of the important tools that have proven so successful at DoD. FMA believes that Congress gave agencies only half of what they really needed to accomplish the workforce reduction when it passed the Federal Workforce Reduction Act. Madam Chairwoman, I want to thank you for introducing H.R. 4719 to require mandatory interagency priority placement of workers who are scheduled to be RIF'ed.

The DoD's Priority Placement Program has played a central role in avoiding RIF's and insuring that valuable and experienced employees are put on the streets while their service is greatly needed. FMA testified before the Civil Service Subcommittee yesterday in strong support of H.R. 4719.

H.R. 4488

Madam Chairwoman, I would like to briefly comment on your legislation, H.R. 4488, to prevent government positions that are vacated through the use of VSIP authority from being filled by contract employees. FMA strongly supports this legislation. FMA believes that in situations where continuing functions are currently being efficiently performed by government employees, replacing Federal employees with contract employees is not in the best interest of the American public.

CONCLUSION

Once again, Madam Chairwoman, thank you for your outstanding leadership and all your efforts on our behalf. This concludes my prepared remarks and I am now happy to answer any questions you may have.

Ms. NORTON. Thank you very much, Mr. Gable.

I would like to ask you what you meant by the pool of eligible—those eligible for buyouts becoming exhausted?

Mr. GABLE. Madam Chair, it is my understanding that currently the people who are taking the buyouts are those who are largely retirement eligible and who are willing to leave Government service. We are concerned that as this population is already harvested, so to speak, by the agencies with these buyouts, that it may be difficult to encourage workers after that time to leave Government service.

Ms. NORTON. I am not certain of that. You may be right, but the testimony seems to me that more and more people want it. And there would be an efficiency concern if you got so that you were biting into the managers beyond efficiency levels.

But it looks like managers get first track—first crack at it often. We have had some instances of agencywide, and others have to wait in line. So I am not sure you would ever exhaust the—I am not sure there is a group, a pool of eligibles. I am not sure you would ever exhaust those who wanted it. But you might exhaust those whom you could afford to give it to in light of the efficiency of the agency.

What did you mean by the unattractiveness of buying out managers?

Mr. GABLE. A number of our——

Ms. NORTON. I thought that was supposed to be the most attractive thing to do?

Mr. GABLE. A number of our managers have relayed their experiences to me that they would not take the buyouts because of the existence of the 2 percent penalty. They are typically managers who are under age 55, and in that instance, the compounding effect of both losing the 2 percent of their annuity, and forgoing planned salary increases, compounds to a significant reduction that is not offset by the $25,000. And it is particularly——

Ms. NORTON. For that age group, yes?

Mr. GABLE. Yes.

Ms. NORTON. I would very much appreciate it if you would give more details to my staff concerning the shortages you relayed, the clericals and other support staff. One wonders why clericals are being bought out in the first place. There is a great problem in hiring clericals in the Washington metropolitan region.

But in any case, to the extent that you could give us the names of the agencies, and as specific information as you have, we would appreciate having that information. Because it helps us to know or to foresee problems that may develop in greater numbers in the past.

I want to particularly thank you, Mr. Gable, since as luck would have it, you were the last witness. But you are a very important witness, and I appreciate your remaining so that you could give this important testimony.

Mr. GABLE. Thank you very much, Madam Chair.

Ms. NORTON. Thank you. The hearing is adjourned.

[Whereupon, at 1:40 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows:]

PREPARED STATEMENT OF JAMES H. BILLINGTON, THE LIBRARIAN OF CONGRESS

The Library of Congress appreciates the opportunity to submit this statement on its experience with the voluntary separation incentive program, or employee buyouts. As you know the Library received authority to offer buyouts prior to enactment of the Federal Workforce Restructuring Act in order to achieve staff reductions mandated by P.L. 103–69, the Legislative Branch Appropriations Act of 1994, which reduced Library funding and set full-time equivalent limitations.

The Library has been faced with the imperative of doing more work and adopting new technologies while operating under stringent budgetary constraints and continued staff reductions. At the end of fiscal year 1993, the Library determined that in order to meet these funding limitations it needed to reduce its staff by 250 persons in addition to normal attrition anticipated for the subsequent two fiscal years (1994 and 1995). The Library sought to meet this additional reduction in staff by offering an employee buyout for 250 employees at the beginning of FY 1994. Only through the combination of incentive payment and early retirement authority was the Library able to avoid the displacement and reductions-in-force of staff that would have resulted from such a large scale reduction in the number of employees within such a limited time frame.

After passage of legislation enabling the Library to offer employee buyouts to reduce its staffing levels, the Library, during the period, October 14 through December 31, 1993, offered 250 buyout opportunities to its eligible staff. Two hundred and forty-five accepted—145 optional and 100 early retirements. One employee was brought back and her retirement canceled due to administrative error.

The voluntary retirements, both optional and early out, induced by the separation incentive payments were crucial to the Library. Not only did they assist the Library to meet its staff reduction objectives but they made it possible to open up career opportunities for other Library staff, many of whom are minorities and women. During a time of restricted recruiting and fiscal constraints, these career opportunities would not have been possible without the voluntary retirements.

The incentive program was offered on a relatively quick turnaround basis, to maximize savings. The program was open to all eligible Library staff. Due to the time limitations and the broad application of the program, it was necessary for the Library to temporarily fill-in gaps created in critical subjects areas and job activities caused by staff who took advantage of the voluntary retirement program. The Library entered into time-limited contracts with 15 of the 245 voluntary retirees when these retirees were uniquely qualified to complete specific tasks and when they could perform the task more cheaply or expeditiously. The use of limited contracts allowed the Library to continue critical work for the Congress and the public in an efficient and cost-effective way with the least disruption to the institution and its programs and services.

The employee buyout program has been an unqualified success. It has permitted the Library to reduce its staffing levels quickly, permanently, and humanely, while saving money and largely reducing the need for reductions-in-force. This, in turn, is opening up new opportunities to Library staff, particularly minorities and women, and allowing the Library to continue to focus on its priorities of serving the Congress and the nation.

PREPARED STATEMENT OF GARY D. ENGEBRETSON, PRESIDENT, CONTRACT SERVICES ASSOCIATION OF AMERICA

Madam Chairwoman, Members of the Subcommittee, the Contract Services Association of America (CSA), the nation's oldest and largest association of government service contractors, is pleased to submit this statement for the record of your hearings pertaining to H.R. 4488, a bill that would prohibit the contracting-out of any position previously held by a government worker who opted to take advantage of a separation incentive package.

Let me be candid and to the point. The legislation before you will place an untenable burden on government managers and will deny important post-government employment opportunities to current government workers. The legislation before you may well result in reductions in government services in areas in which those services need not, and should not, be reduced.

Most importantly, the legislation would link a government-wide policy to reduce the size of the government workforce with a separate, longstanding policy which rightly suggests that the government should utilize the most cost- and quality-effective means of performing its functions and delivering its services. These two issues are very different and must be de-linked if sound, rational policy is to result.

The kind of broad-based ban envisioned in this legislation ignores the fact that there is no relationship between contracting-out and separation incentives. The government is committed to reducing its manpower levels by a certain number of people; that reduction will take place with or without contracting-out. Thus, to declare that a function which could more efficiently be performed by a contractor must remain in-house if it is impacted by a separation incentive program is shortsighted and contrary to the best interests of the taxpayer and the government.

Futhermore, the legislation before you is anti-taxpayer and anti-efficiency in the extreme. It would tie the hands of government managers and effectively prohibit them from exercising sound management judgments and from ensuring that the government's functions are performed in the most efficient and quality-conscious manner possible. Indeed, it is antithetical to the very concepts of streamlining government and enhancing government management, to restrict government managers' authority to such an extraordinary degree.

Ironically, a government manager faced with this legislation and a parallel need to deliver a service, many well opt to simply not offer any separation incentives to existing employees and maintain current staffing levels regardless of their impact on the government's downsizing policy. While such a tactic would serve the interests of the government employee unions, it would clearly be contrary to broader national interest in that it would have a deleterious effect on the overall separation incentive program.

Managers could also opt to simply sever employees with nothing more than the standard severance payments, so as to avoid the overly restrictive prohibitions of this legislation. This approach may represent the only mean by which those managers can fulfill their job requirements in light of the ban proposed in H.R. 4488, but is certainly not one that anyone wishes to see utilized.

Therefore, the proposed legislation will serve neither the interest of the American taxpayer nor those government managers charged with meeting their mission.

One must also question whether the proposed legislation will serve the interests of the very employees it is supposed to protect. Historically, we know that over 65% of all employees whose functions are contracted-out are hired by the contractor involved. Indeed, no one has ever suggested that government employees are incapable of doing their jobs well; they simply are not given the tools. Thus, when a contractor takes over a government function, he or she is going to hire a large number of qualified government workers, consistent, of course, with the contract's cost and quality goals, so as to avoid any unnecessary training and recruitment costs. The contractor, thus becomes an important employment opportunity for those who are affected by a decision to contract.

However, if this legislation becomes law, that employment opportunity disappears. It is hard, therefore, to see how this legislation protects the long-term interests of current government employees.

It also is disturbing that this hearing featured only government agency officials and public employees union officials. Where is the perspective of the private sector? The Administration has agreed that the long-term economic vitality of our nation is dependent on "growing jobs" in the private, as opposed to the public sector. How can one then analyze an issue of this type without input from that portion of the private sector that is impacted by it? By what sense of fair play is a decision made to ignore entirely the input of a key stakeholder in the decision?

While the public employee unions represented at this hearing do represent key stakeholders, they do not represent the entirety of the American labor movement. Perhaps the Subcommittee could benefit from input from any of a number of private sector unions who could testify to their increasing restiveness over the special protections afforded public sector unions.

We must also recognize that, like everyone else, the public employee unions have an agenda, made necessary by their need, first and foremost, to maintain and increase their membership base. That is why they have opposed, for years, any attempts to streamline government and any legislation that might, in any way, facilitate contracting-out. By definition, streamling and contracting will result in membership reductions for those unions. This is a reality we must address if our mutual attempts to improve the way our government works are to succeed.

Madam Chairwoman, while we have strong differences of opinion on this legislation, I hope and trust the Subcommittee will take our comments and concerns to heart. There are numerous protections in current law which preserve the rights the public employees. Now is the time to allow sound and rational policy-making to take hold, within the parameters of those established protections, for the good of the government and the nation as a whole.

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